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P.W. DEPARTMENT

Misc. BRANCH

Subject:— Port & Port Trust Acts.
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G. R., G. D., No. 2408, dated 22-6-22.]

Correspondence

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Subject :—

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Public works **DEPT.**

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References :—

Copies from original file B [illegible]

Date.	To whom sent.	Notes and instructions.

Statement showing various proposals requiring amendments to the Calcutta Port Act, 1890, the Bombay Port Trust act, 1879, and the Madras Port Trust Act, 1905 relating to the constitution, functioning, etc, of the Board of Trustees- Group 2.

Item No.	Brief description of the item.	Tentative decisions of the Government of India.	Proposed amendments to the various acts.
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1.	Proposal that the Collectors of Customs at Bombay and Madras should be made ex-officio trustees of the Bombay part Madras Port Trust	This suggestion was made by the Central Board of Revenue in January 1938. By the Bombay, Calcutta and Madras Port Trusts (Constitution) (Amendment) Act, 1948, Provisions has already been made in the relevant Acts for the Collectors of Customs at Bombay and Madras to become ex-officio trustees of the Bombay and Madras Port Trust Boards respectively. The Calcutta Port Act already provided for the Collector of Customs at Calcutta to be an ex-officio Port Commissioner, and this position has been maintained under the revised constitution prescribed by the Amendment Act of 1948 referred to above. No further legislative action is, therefore, called for in regard to this proposal.	
2.	Question of amending the various Port and Port Trust Acts to provide for the appointment of a representative of labour on each of the Port Trust Boards.	Prior to the enactment of the Port Trust (Constitution) (Amendment) Act of 1948, provision existed in the Madras Port Trust Act, as well as in the Bombay Port Trust Act, for the appointment of a nominee trustee to represent labour. There was, however, no such provision in the Calcutta Port Act. Under the Amendment Act of k948, provision has been made in all the three Port Trust Acts for two representatives of labour, chosen by the Central Government after consultation with registered Trade Unions, If any composed of persone employed in the Port concerned, to be appointed as trustees.	

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	No further legislative amendment is, therefore called for in connection with this proposal.	
3. Proposed amendment of Sub-sectio(2) of Section 5 of Bombay Port Trust Act of 1879, substitution "Bombay District" for "Bombay Brigade" in that sub-section.	This is only a verbal amendment but, even in this case no legislative action is now called for as sub-section(2) of section 5 of the Bombay Port Trust Act has already been amended by the Port Trusts(Constitution) (Amendment) Act of 1948. The amended section 5(2) provides inter alia for two representatives of the Defence Services being chosen by the Central Government for appointment as nominee-trustees, and the reference to the "Bombay Brigade" has been eliminated.	
4. Proposed amendment of section 13(1) of the Bombay Port Trust Act to Provide for the filling of vacancies in the office of trustees caused under the operation of section 14-A(b) of the Act.	Section 13(1) of the Bombay Port Trust Act, as it stands, provides for the filling of casual vacancies occasioned by the death, resignation or disqualification of trustees. Section 14 of the Act prescribe thecircumstances under which a trustee gets disqualified and section 14-A indicates the circumstances when a trustee ceases to be a trustee. under the last -mentioned section, a trustee vacates this office not only when he gets disqualified under the operation of Section 14 but also if he is absent from the meetings of the Board with permission for a period exceeding 12 months or without permission from six consecutive meetings, and lso if he takes part in the proceedings of the Board in contravention of section 14-B. Section 13(1) makes no provision for the gilling of a vacancy arising as a result of all thecontingencies mentioned in section 14-A and is to this extent defective.	Amedments to the Bombay Port Trust Act. (i) In sub-Section (1) of section 13, the words"death" resignation or disqualificatio of such trustee" the words" death or resignation of such trustee or under the operation of section 14A" shall be substituted. Note- This anebdnebt us also includedin the amendment to sec. 13(1) indicated under item 9.

The Proposal.....

(ii).....

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	The proposal is to amplify section 13(1) so as to rectify this lacuna in that section. The Bombay Port Trust are in favour of having section 13(1) of their Act amplified. The Madras Port Trust are also apparently in sympathy with the suggestion though, under the existing section 13 of the Madras Port Trust Act, there is even now no legal difficulty in regard to the filling of a vacancy in the Madras Port Trust Board caused by the operation of section 10(2) of the Madras Act, which corresponds to section 14A of the Bombay Act. The Calcutta Port Commissioners have not commented as they have no such difficulty in respect of casual vacancies in the office of Commissioners, vide section 16 read with section 17 of the Calcutta Port Act. The specific amendment proposed to be made in section 13(1) of the Bombay Port Trust Act is indicated in column 4. It is also felt that a similar amendment should be made to section 9 of the Bombay Port Trust Act, which speicifies that trustees shall hold office for 2 years unless in the meantime they get disqualified, as this sub-section suffers from the same defect as sub-section (1) of section 13.	(ii) In section 9, for the words "unless they become in the meantime disqalified", the words "unless in the meantime they cease to be trustees by resignation or under the operation of section 14A" shall be substituted. Note. This amendment has been embodied in the redraft of section 9 proposed under item No. 9.
Proposed amendment of section 16 of the Madras Port Trust Act, to provide for the disqualification of the trustees who participate in the proceedings of the Viard in contravention of section 23A of that Act.	(c) Under section 14A of the Bombay Port Trust Act, a trustee ceases to be a trustee if he acts in contravention section 14B of that Act, which prohibits a trustee from taking part in the discussion or voting at any meeting of the Board or a committee of the Board in relation to any matter in which he is directly or indirectly interested. There is no such provision in the Calcutta Port Act or in the Madras Port Trust Act, though section 23A, of the latter Act, which corresponds to section 14B of the Bombay Act, expressly prohibits Trustees from voting or taking part in discussions of the Board or of a committee of of the Board in matte rs in matters in which they are interested.	A Amendment to the Madras Port Trust Act. In sub-section (2) of section 10 new clause shall be added as clause (d):- "(d) acts in contravention of the provisions of section 23A".

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The Madras Port Trust has suggested that a provision should be made in section 10(2) of their Act on the lines of section 14A(c) of the Bombay Act. This suggestion should of course be accepted as otherwise the restrictions imposed on Trustees under section 23A of the Madras Act cannot be effectively enforced. The specific amendment to section 10(2) of the Madras Port Trust Act is indicated in the next column.

For the sake of uniformity, it is considered necessary that a clause should be added in section 17 of the Calcutta Port Act so as to declare that a Commissioner shall cease to be a Commissioner who votes or takes part in the discussions relating to any matter in which he is interested. The specific amendment is indicated in the next column and is beased on section 23 A of the Madras Port Trust Act.

B <u>Amendment to the Calcutta Port Act.</u>

The following clause shall be added as clause (c) to section 17:-

"(c) who shall vote or take part in the discussion of any question coming up for consideration at a meeting of the Commissioners or of a Committee of the commissioners, if the question is one in which he has any direct or indirect pecuniary interest for himself or his partner, or in which he is interested professionlly on behalf of a client or as agent for any person other than the Crown or Local Authority or Railway Company."

<u>Note</u>. This clause has been embodied in the redraft of section 17 indicated under item No. 16.

6. Proposed amendment of section 13 of the Madras Port Trust Act to provide for filling of vacancies in the office trustees within one month of the occurence of such vacancies.

As it now stands, setion 13 of the Madras Port Trust Act requires the Constituent Bodies which are entitle to elect trustees to fill vacancies in the office of trustees within one month on the occurence of such vacancies within one month after the occurrence of such vacancies. In 1941 it was represented to the Government of India by the Sothern India Chamber of Coommerce that this requirement of section 13 resulted in the Constituent Bodies remaining unrepresented at certain meetings of the port Trust Board and should be amended.

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		The Madras Port Trust are in sympathy with the Porposal. The Bombay Port Trust have stated that there is not such difficulty at their port as section 13 of the Bombay Act provides for the filling of casual vacancies <u>within</u> one month of the occurence of such vacancies. The Calcutta Port Commissioners also do not have any objection to the proposal but have remarked that the time limit of a month should run from the date the Constituent Bodies concerned are advised of the occurence of a vacancy as, under the Calcutta Act, such bodies" have no power to elect a Commissioner until they are instructed by Government to do so".	
		It is proposed to amend section 13 of the Madras Port Trust Act suitably. This has been taken care of in the redraft of section 13 which is proposed under item No. 10.	A. <u>Amendment to the Madras Port Trust Act.</u> The necessary amendment has been included in the redraft of section 13 proposed under item No. 10. Extracts from the proposed new section 13 is reproduced below for ready reference.
		No amendment is called for in this connection so far as the Bombay Port Trust Act is concerned, which already provides for filling of the vacancies <u>within</u> one month of their occurrence.	
		So far as the Calcutta Port Act is concerned, section 14 provides for the filling of regular vacancies of Commissioner within one month, and section 16 of that Act provides for casual vacancies being filled" forthwith" There seems to be nothing in the Calcutta Port Act to support the statement made by the Commissioners that the constituent Bodies cannot proceed with their election for filling any vacancy unless instructed by Government to do so. It is true that the existing section 14 does not specify the point of time from which the period of one month within which the vacancies are to be filled is to run. Apparently, the intention of section 14 that	"(1) All vacancies in the number of trustees shall be filled within one month..... (2) Any casual vacancy in the office of any Trustee shall be filled up within one month by election or appointment....."

vacancies.....

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		vacancies should be filled within one month of their occurrence. It is proposed to clarify this intention by amplifying section 14. The Right has been covered under item No. 10 where it is proposed to replace the existing sections 14 and 16 of the Calcutta Port Act by new sections.	B. Amendment to the Calcutta Port Act. The redraft of section 14 and 16 proposed under item No. 10 covers this.
7 Proposed amendment of the Port and Port Trust Acts to ensure that the trustees elected by the Constituent Bodies are themselves members of those Bodies.		this suggestion was originally made by the Sothern India Chamber of Commerece in 1941 with referece to the Madras Port Trust Act. It has been ruled that Section 8 of the Madras Port Trust Act, as it states, does not require the Electing Bodies to elect trustees from among their own members, and there is nothing in the Act to disqualify a trustee who, after having been duly elected by any of the Constituent Bodies ceases to be a member of that Body during his term of office as trustee. The legal position under the Bombay and the Calcutta Act. is also the Same and the question for consideration is whether it should be laid down by amendment to the three Acts that any trustee who, having been elected as a trustee, ceases for any reason to be a member of the Body that elected him during his term of office shall cease to be a trustee. The Madras Port Trust have asked for necessary legislative amendments in their Act for the purpose and the Calcutta Port Commissioners and the Bombay Port Trust have also no objection to such amendments being made to their Acts. Both these authorities have, however, added that in their experience no Electing Body has so far elected a non-member as a trustee. The Government of India have been advised that if it is intended to disqualify a trustee who ceases to be member of the constituency which elected him, it is best to provide specifically that a person should not be qualified to be elected as a trustee unless he is a member of the Electing Body. It has also been suggested to them that, under the revised scheme of representation provided under the Port Trust (Constitution) (Amendment) Act of 1948, it will be improper to restrict the discretion of any Electing Body to elect any person as a trustee whether he is a member or not. It is felt that Government should have no objection if, say, a Municipality send their Executive Officer as their representative on the Port Trust Board or if any Chamber of Commerce send their Secretary, who may not be a member of the Chamber to represent them on the Board. Some of the Electing Bodies, may not possess a legal constitution and the question whether a particualr person.....	

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Person is a member or not may not be free from doubt. Also, the members of the Chambers of Commerce may be firms and not individuals and this fact may create complications if it is insisted that the trustees elected by such Chambers should be members only.

Taking into account all these factors, the Government of India consider that it is best not to make any specific provision in the Acts requiring the various constituent Bodies to elect trustees from among their own members only and, as a corollary, it will be unnecessary to add a new clause to the Acts to the effect that an elected trustee shall cease to be a trustee when he cease to be a member of the constituency which elected him.

Proposal that a provision should be made in the various Port Trust and Port Acts in order to enable the Provincial Government concerned to have a nomination on the Port Trust.

Provision was made in the Madras Port Trust Act by the Amending Act of 1941 for the appointment to the Madras Port Trust Board of one trustee by the Provincial Government but, till 1948, there was no statutory provision either in the Calcutta Port Act or in the Bombay Port Trust Act for the appointment or nomination by the Provincail Government of their representative on the Calcutta Port Commission or on the Bombay Port Trust Board. Provision has now been included in the Calcutta and the Bombay Acts by the Port Trust (Constitution) (Amendment) Act, of 1948 for one of the trustees to be "chosen" by the Provincial Government The existing provision in the Madras Port Trust Act in this respect has also been continued under the revised constitution introduced by the Amending Act of 1948, No further legislative action, is, therefore, called for on this proposal.

Under the Calcutta Port Act, there is now no provision for the representative "chosen" by the Provincial Government to be formally "appointed" and notified in the Gazette as a Commissioner. This lacuna has been discussed further under item No. 9 where provision has been proposed to rectify it.

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9	Proposed amendment to the various Port Trusts and Port Acts to regularise a system of appointment of official trustees by designation.	Prior to the enactment of the Port Trust (Constitution) (Amendment) Act of 1948, the Calcutta Act provided for 19 Commissioners in all and for all official Commissioners to be ex-officio under the Act. The Amendment Act of 1948 revised the constitution and provided for a Board of 24 Commissioners including the Chairman of whom six are ex-officio Commissioners, five are chosen either by the Central or the Prov. Govt. and thirteen are elected by various Constituenceies. Section 10 of the Act prescribes a term of 2 years for the elected Commissioners but there is at present no provisionin regard to term of office for commissioners other than ex-officio Commissioners who are "chosen" by the Central or the Provincial Government; nor is there any provision for the formal appointment of the Commissioners so "chosen" of for making temporary appointments when such commissioners are absent. Section 5 of the Bombay Port Trust Act, 1879, provided, prior to the Amendment Act or 1948, for a Port Trust Board of 22 members of whom 13 were "elective" and 8 "nominee" trustees exclouding the Chairman. The nominee trustees were not ex-officio trustees. This section,as Board of 25 members consisting of a Chairman, 10 "nominee" trustees and 14 nominee colective" trusteesx. Of the 10 nominee trustees, 4 are ex-officio and the remaining 6 are chosen by the Central or the Provincial Government. All the nominee and elective trustees have to be appointed by the Central Government, vide section 7 and, under section 8, the nominee and elective trustees hold office for term of ~~two of a~~ yxxyears. Under.....	A. Amendments to the Calcutta Port Act: (1) In section 6, after sub-section (2) the following sub-section shall be added:- "(3) All the Commissioners, except those who are elected or who are ex-officio Commissioners shall be appointed by the Central Government, either by name or by official designation, by notification if the official Gazette". (ii)x Section 10 shall be regarded as follows:- "10(1) Every person elected or appointed by name to be a Commissioner shall, subject to the provisions hereinafter contained, continue to hold the office to which he shall be elected or appointed for the term of years; but may at the expiration of such term be re-elected or re-appointed. (2) ~~Every~~ person appointed to be a commissioner by virtue of an office shall, until the Central Govt. by notification otherwise direct, or until he resigns and his resignationx is accepted by the Central Govt., continue to be a Commissioner while he continues to hold that office" (iii)....

Under sections 7 and 8 of the Madras Port Trust Act as amended in 1941, the Port Trust Board consisted of 18 trustees excluding the Chairman of whom 5 were chosen by the Central Govt. 1 by the Prov. Govt. and the remaining all were elected by various Constituencies. None of the non-elected trustees were ex-officio trustees. Under these sections as amended in 1948, the Board now consist of 21 trustees including the chairman of whom, besides the Chairman, 4 are ex-officio, 5 are chosen either by the Cental on by the Prov. Govt. and the remaining all are elected trustees, Section 9 of the Madras Act requires the names of all persons appointed or elected as trustees to be published in the official Gazette and Section 11 prescribes a normal term of office of 2 years for all trustess excepting the Chairman.

Of the nominee trustees or trustees who have to be appointed by Govt. some are likely to be non-officials as for example the representatives on labour but others are likely to be officials, and it is convenient in their cases to appoint them by designation rather than by name. Provision should, therefore, be made in the Acts for appointments of such nominee trustees to be made either by name or by designation. The Government of India have, however, been adviside that the appointment of nominee or official trustees by designationis inheretly incompatible with fixed tem of office, with the freedom to resign, and even the provision regarding disqualification of trustees is inapplicable to trustees who are appointed by designation. The Government of India agree that official trustees who are appointed by designation should be placed on the same footing as those who are ex-officio trustees under the provisions of the Act. They also agree

(iii) In section 14, for the words "elected Commissioners" the words "Commissioners whether elected or appointed" shall be substituted, and after the word "elecction ", the words "or by appointment as the case may be" shall be inserted.

Note.- This has been covered in the redraft of section 14 under item No. 19.

(iv) In section 15 -

(a) in sub-section (1), for the words "elected Commissioner", the words "Commissioners whether elected or appointed" shall be substitued and after the word "election" the words "or appointment" shallbe innserted.

(b) In sub-section (2), after the word "elected" the words " or appointed" shall be inserted.

(v) The amendment called for in Section16 has been included in the proposed redraft of the section under item No. 10,

(vi) The amendments called for the section 17 have been including in the re-draft of section 17 proposed under item No. 16.

that.....

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		that the provisions relating to a fixed tenure of office and disqualification should not apply either to the Chairman or to any trustee who is ex-officio by or under the Act. They, however, feel that provision should be made for official trustees appointed by designation to resign their office but such resignation should not take effect till the same has been accepted by Government. The normal tenure of 2 years may, therefore, apply only to those trustees who are elected or who are appointed by name but those who are appointed by virtue of and ~~that~~ office should continue to be trustees so long as they hold that office unless the Government otherwise direct or unless they resign and their resignation is ~~accepted~~ accepted.	B. Amendments to the Bombay Port Trust Act:
		Opportunity is proposed to be taken to remove certain lacunae which have arisen as a result of the revision of the constitution of the Calcutta Port Commissioners by the Amenement Act of 1948.	Note:- It is not proposed to interfere with the expressions "nominee-trustees" and "elective-trustess" and their variants used in the Bombay Port Trust Act.
		The various amendments considred necessary to give effect to these tentative decisions are indicated in the next column.	(i) In section 7, for the ~~interference with the expressions "nominee-trustees" and "elective-trustees" and their variants used in Bombay Port Trust~~ words "nominee trustees and the Chairman" the words "the nominee-trustees other than those who are ex-officio trustees". shall be substituted and after the words "Central Govt.", the words "either by name or by official designation" shall be inserted. (ii) For section 9, the following section shall be inserted:- "9(1) Every nominee-trustee appointed by name and every elective-trustee shall unless in the meantime they cease to be trustees by resignation or under the operation of section 14A, hold office for a te-

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			for a term of 2 years.
			(2) Every nominee-trustee appointed by virtue of an office shall, until the Central Govt. by Notification otherwise direct or until he resigns and his resignation is accepted by the Central Government, continue to be a trustee while he continues to hold that office."
			(iii) In section 11, after the words "the Chairman" the words "shall be appointed by notification in the Official Gazette by, and" shall be substituted.
			(iv) In section 18 sub-section (1) for the words "Any casual, vacancy in the office of a trustee other than the Chairman, occasioned by the death, resignation or disqualification by such trustee", the following words shall be substituted:-
			"Any casual vacany in the office of an elective-trustee or of a nominee-trustee appointed by name, occasioned by the death or resigantion of such trustee or under the opration of section 14A".
			(v) In section 14, sub-section (1) for the words "No person shall be qualified to be a trustee", the words -
			"No person shall be qualified to be an elected trustee or to be a trustee appointed by name" shall be substituted.
			(vi) In section 14A, for the words "Any trustee" the words "Any elected trustee or any trustee appointed by name " shall be substituted.
			(vii) In section 14B, for the words "A trustee" the words "An elected trustee or a trustee appointed by name" shall be subtituted.
			C. Amendments to the Madras Port Trust Act.
			(i) Section 9 shall be reqorded as follows:-
			"9(1) The trustees other than those who are ex-officio or elected shall be appointed by the Central Government either by official designation or by name by notification in the Official Gazette.

(2).....

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		(2) The names of persons elected as Trustees shall be published by the Central Government in the official Gazette". (ii) In section 10 - (a) In sub-section (1), for the words "No person shall be qualified to be a Trustee", the words "No person shall be qualified to be an elected Trustee or to be a Trustee appointed by name" shall be substituted. (b) In sub-section (2), for the words "Any Trustee", the words "Any elected Trustee or any Trustee appointed by name" shall be subtituted. (iii) Section 11 shall be reworded as follows:- "11 (1) The Chairman shall hold office during the pleasure of the Central Government. (2) Every person who is either elected or appointed by name to be a Trustee shall hold office for a term of two years from the date of election or appointment as the case may be unless in the meantime he ceases to be a Trustee by resignationor under the operationof sub-section (2) of section 10. (3) Every person appointed to be a Trustee by virtue of an office shall, until the Central Government by notificationotherwise direct or until he resigns and his resignation is accepted by the Central Government, continue to be a Trustee while he continues to hold that office". (iv) In the re-draft of section 13 proposed under item No. 10, the opening words of sub-section (2) shall be "Any casual vacancy in the office of an elected Trustee or a Trustee by appointed name..."

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10	Question of amending Section 10 of the Bombay Part Trust Act to remove the restriction on Government to appoint Trustees between the 16th and the ~~first~~ 31st March.	Section 10 of the Bombay Port Trust Act prescribes that elective trustees shall be elected during the period from the 1st to the 15th of March and the nominee trustees shall be appointed by Government during the remaining period of the month, that is between the 16th and the 31st of March. This provision is unnecessarily restrictive not only for Government who appoint the nominee trustee but also for the Constituent Bodies who return elected trustees. To remove this restriction it is considered necessary that section 10 of the Bombay Act should be amended to provide for the appointments to be made by Govt. being made any time during the entire month of March and, a corresponding provision should also be made for the elective trustees to be likewise ~~made for the~~ elected at any time during the same month. These changes will be in consenance with the time limit of one month allowed under Section 13(1) for the filling of casual vacancies of both nominee and elective trustees. The specific amendment considered necessary for the purpose is indicated in the next column. Unlike the Bombay Act, there is , at present, no provision in the Calcutta and the Madras Acts for the re-constitution of the Calcutta Port Commissioners and the Madras Port Trust at the beinginning of April every second year. In the interests of uniformity, it is felt that provision should be made in those two Acts also on the lines of Section 10 of the Bombay Port Trust Act. This will enable the Central Government to take up periodoically once in two years the question of filling all the regular vacancies which they are empowered to do instead of having to consider the appointement of trustees against such vacancies at different times as and when they occur. The amendments considered necessary are indicated in the next column.	A-<u>Amendment to the Bombay Port Trust Act.</u> Section 10 shall be re-worded as follows - "10. All vacancies in the number of elective-trustees or nominee-trustees appointed by name shall be filled by election or appointment as thecase may be withinone month preceding the 1st of April from which date their term of office is to commence. Vacancies in the office of nominee-trustees appointed by official designation shall be filled by appointment within one month of their occurence. (b) <u>Amendments to the Calcutta Port Trust Act.</u> (i) Section 14 shall be reword as follows:- "All vacancies in the number of Commissioners whether elected or appointed by name shall be filled by election or by appointment as the case may bge within one month preceding the 1st of April from which their term of April from which their term of office is to commence. Vacancies in the office of Commissioners appointeed by offical desigation shall be filled by appointment within one ~~t~~ month of theoccurence thereof". (ii).....

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			(ii) Section 16 shall be re-worded as follows:-
			"Any casual vacancy in the office of an elected Commissioner o r a Commissioner appointed by name, occasioned by the death or resigantion of such Commissioneror by the operation of sub Section (2) of section 17, shall be filled up within one month by election or appointment as the case may be in the manner hereinbefore provided; Provided that the Commissioner so elected or appointed shall retain his office so long only as the vacating Commissioner would have retianed the same if such such vacancy had not occurred".
			(6) Amendments to the Madras Port Trust Act. Section 13 shall be re-worded as follows:- (1) All vacancies in the number of Trustees whether elected or appointed byname shall be filled by election or by appointment as the case may be withinone month preceding the 1st of April from which their term of office is to commence. Vacancies in the office of Trustees appointed by official designation shallbe filled by appointment within one month of the occurrence thereof". (2) "Any casual vacancy in the office of on elected Trustee or a Trustee appointed by name, occasioned by the death or resignation of such Trustee or by the operation of sub-section (2) of Section 10, shall be filled up within one month by election or appointment as the case may be in the manner herein before provided; Provided that the Trustee so elected or appointed shall betain his office so long only as the vacating Trustee would have retained the same if such vacancy had not occurred".

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11	Question of amending the Port and Port Trust Acts to ensure suitable publicity being given to the proceedings of the Port Trust Boards.	As a result of certain questions asked in the Central Legislative Assembly in 1938. the Government of India came to the following conclusins and decided that suitable legislative amendments should be made to the relevant Acts to give effect to these conclusions when those Acts were next revised:- (a) that is was unnecessary to publish the proceedings of the Port Trust Boards in the official Gazette in view of the expenditure involved in such publication; (b) that any interested member of the public should be given facilities to inspect the proceedings of the Board on payment of a suitable fee, the Chairman having discretion to disallow the inspection of any particular portion of the proceedings which he considers should be kept confidential; and (c) that copies of the proceedings should, at the discretion of the Chairman, be supplied to any member of the Public applying for the same, on payment of a copying fee. The only Port Trust Act which now requires the publication of the proceedings of the Port Trust Board in the official Gazette is the Madras Port Trust Act, vide Section 23(1) the Madras Port Trust Act, vide Section 23(0) (i) of that Act, and the Madras Port Trust have urged that the present opportunity should be taken to amend that Section. The specific amendment to clause (i), sub-section (1) of this section required to be made for the purpose is indicated in the next column. As regards allowing the public to inspect the proceddings of the port Trust Board, neither....	A. Amendments to the Madras Port Trust Act. In section 23, sub-section (1), (i) the words "and shall be published in the official Gazette" shall be omitted from clause (i); and (ii) the following new sentence shall be added at the end of the existing clause(g) - "The minutes, excepting such portion thereof as the Chairman may in any particular case direct, shall also be open to the inspection of public during office hours, on payment of such fee as may be fixed by the Board from time to time. B. Amendment to the Calcutta Port Act. In section 44, sub-section(2) the following new sentence shall be added after the existing sentence - "The minutes, excepting such portion therof as the Chairman may in any particualr case direct, shall also be open to the inspection of the public during office hours on payment of such fee as may be fixed by the Commissioners from time to time". C. Amendment to the Bombay Port Trust Act. In section 16, sub-section (2) clause (g), the following new sentence shall be added -

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		Neither Calcutta nor Bombay nor Madras have any objection to a suitable provisionbeing made in their Acts for this purpose. The Madras Port Trust have suggested the additon of a new clause to sub-section (1) of section 23 of their Act. but it is felt that the object can be suitabley met by amplifying theexisting clause (g) of Section 23, sub-section (1) which, inter alia, provides for inspection of the minutes by the trustess. The amplification required to be made is indicated in the next cojumn. A similar addition should also be made in sub-section (2) of Section 44 of the Calcutta Port Act and in cluase (g) of sub-section(1) of Section 16 of the Bombay Port Trust Act, as indicated in he next column. As regards supplying copies of the proceddings to members of the public on payment the Calcutta Port Commissioners are evidently not in favour of any provision being made for this purpose as they say that they cannot anticipate the demand for having the requisite number of copies printed and kept in tock for meeting unforeseen demands. The Bombay Port Trust have, however, no objection to copies being supplied at the descretion of the Chairman, and the Madras Port Trust also have no objection to suitable provision being made in their act for the purpose. On reconsideration, the Government of India feel that there is no real need for making specific statutory provisionin the Port Trust Acts for the supply of copies of theproceedings to members of the public. The commercial and trading public who are generally converned with the working of the ports and the Port Trusts have already got representationon the port Trust Boards and it is extremely unlikely that any member of the public will....	"The minutes excepting such portion tehereof as the Chairman,may in any particular case direct shall also be open to the inspection of the public during office hours on payment of such fee as may be fixed by the Board from time to time".

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		will be so much interested in the proceedings as to require a copy being supplied to him and, in any case, since provision is being made for the inspection of the proceedings by members of the public, no futher provision for the supply of copies thereof need be made. In fact, according to the Calcutta Port Commissioners, even the right of inspection is hardly likely to be ever availed of, and the Government of India share this feeling.	
12. Public action of notifications relating to the Port Trust and their activities in the Official Gazette.		Prior to the promulagation of the Adaptation of of the Indian Laws Order, 1937, the Calcutta Port Act, the Bombay Port Trust Act and the Madras Port Trust Act, required various notifictions, etc., to be published in the local official Gazette. The Adaptation Order made a general provision to the effect that, unless expressly directed otherwise, the words "the local official gazette" or thier equivalents occurring in the various Indian Laws which were the subject of adaptation should be substituted by the words "Official Gazette". The various Sections of the three Port and Port Trust Acts which, prior to the adaptation made in 1937, requred notifications etc , to be published in the local gazettes, are indicated below:- <u>Calcutta Port Act</u>. Section 6(2) ,7, 8(1), 18,23,38(1), 38(2), 76,(2), 92,95, 96,97,107,109, *119 and 126(4). <u>Bombay Port Trust Act.</u> Section 3(2), 6(3), 6(4)m 7, 39*	<u>A Amendment to the Calcutta Port Act.</u> After section 3, the following now sub-section shall be inserted:- "3A.- Any requirement in this Act to the effect that notifications etc., issued by the Commissioners or by the Central Govt. shall be published in the Official Gazette, shall unless otherwise expressly provided in this Act be construed as a require. men that the notifications etc. issued by the Commissioners shall be published in the gazette of theProvincial Government and the nofification etc. issued by the Central Govt. shall be published in the Gazette of India."

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42E(2)*, 43B(1)*, 58, 60, 64*, 74* and Scheduled B*.

Madras Port Trust Act.

Sections 5(9), 9, 23(i), 44(1), 45(2), 46, 57, 63(1), 64B(2), 65, 80, 92, 96,99 and 113.

The Adaptation order exepressly directed that the references to the local gazette in the various sections of the Calcutta and the Bombay Acts quoted above marked with asterikks shall remain unchanged, and also expressly amplified section 5 of the Madras Port Trust Act to the effect that where the Madras Port Act to the effect that where the Madras Port Trust Board was required to issue any notifications in the Official Gazette such notifications should be published in the Provincial Gazette.

The Government of India have been advised that the expression "Official Gazette" inserted in the Bombay Act by the Adaptation Order means the Gazette of India, and, on the strength of theis advise it can be taken for granted that in the Calcutta Act also, the expression "Official Gazette" menas the Gazette of India.

The Calcutta Port Commissioners consider that so long as the administration and control of Major Ports is a Central Subject, the Gazette of India is the appropriate organ in which notifications, etc., relating to the Port should be published. The Bombay Port Trust are specifically empowered to publish certain matters in the Provincial Gazette as already indicated above, and they want that the accounts of the Port which they now have to publish in the Gazette.....

B.-Amendment to the Bombay Port Trust Act.

After Section 3, the following new Section shall be inserted:-

"3A. Any requirement in this Act to the effect that notifications etc., issued by the Board or by the Central Government shall be published in the Official Gazette, shall unless other wise Act be construed as a requirement that the notification etc. issued by the Board shall be published in the Gazette of the Provincial Government and the notifidations etc. issued by the Central Government shall be published in the Gazette of India.".

C- Amendment to the Madras Port Trust Act.

(i) In Section 5, the words "Any requirement in this Act ... in the Official Gazette of the Province" inserted by the Government of India (Adaptation of Indian Laws) omitted.

(ii) The following new Section shall be added as Section 5A.

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		Gazette of India should be published by them in the Bombay Gazette. The Madras Port Trust do not want any change in the existing provision in their Act which allows them to publish any matterial that they have to publish in the Provincial Gazette. There are obvious advantages in publishing notifications, etc., relating to the Port working in the Provincial Government Gazette as these get greater local publicity and reach a larger circle of local interests which are more intimately concerned with the various aspects of Port working. It is, however, agree that notifications, etc. which are issued by the Central Government should continue to be published in the Gazette of India. It is accordingly proposed that provision should be made in all the three Port and Port Trust Acts specifically to provide that the notifications, etc., to be issued by the Central Government should be published in the Gazette of India and those to be issued by the Port Trusts themselves should be published in the Provincial Gazette. The specific amendments called for for this purpose are indicated in the next Column.	"5A. Any requirement in this Act to the effect that notifications etc., issued by the Board or by the Central Government shall be published in the Official Gazette shall unless otherwise expressly provided in this Act be construed as a requirement that the notification issued by the Board shall be published if the Official Gazette of the Provincial Government and the notifications etc., issued by the Central Government shall be published in the Gazette of India.

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13	Question of amendment of the Bombay Port Trust Act to validare the payment of fees to Trustees for attending meetings of Advisory Committees of the Port Trust.	The Bombay Port Trust Board has been in the practice of adividing itself into Advisory Committee for the expeditious disposal of work The Trustees who attend these Advisory Committee Mettings used to be paid and are probably still paid fess under Section 15(2)(c) of the Act. It has been ruled that while the Port Trust Board has been ruled that while the Port Trust Board has x got the inderemt right to set up Advisory Committees, Clause (c) of Section 15(2) does not autherise the payment of fees to Trustees attending such Committees as the "Committee" envisaged in that clause is a Committee" envisaged in that clause is a Committee to which the Board has delegated any of its powers under Section 16(3) and is not the same as a purely Advisory Committee with no such delegated powers. The Bombay Port Trust consider that Trustees attending such Committee meetings should get fees and that necessary provision should be made in the Act for such payment being made subject to the ~~xxx~~ same restrictions ~~xxx~~ as apply to payment of fees for special meetings of Committees under Section 15(2) and 15(3). It is proposed under item 14 below that sub-section (2) and (3) of Section 15 of the Bombay Act, which now prescribe fixed payments for Trustees attending meetings of the Board, both ordinary and special, and of special Committees of the Board to whom the Board has delegated ~~certain~~powers, should be omitted, and in their places general provision should be made on the lines of the Calcutta and the Madras Acts empowering the Central Government to fix the fees payable to Trustees by executive order. It is not, therefore, necessary to make any express provision in the Bombay Act for payments of fees to Trustees attending Advisory Committee Meetings. The.....	Amendment to the Bombay Port Trust Act. In Section 16, sub-section (3), for the words "any Committee so formed " where they first occur, the words "any committee to which any such delegation has been made "shall be substituted, and where the words "any Committee so formed " occurs for the second time, the words "any such Committee" shall be substituted.

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The question remains whether any statutory action should be taken to validate the payments made in the past to Trustees attending Advisory Committee meetings. It is considered hardly necessary to make any special amendments in the Bombay Port Trust Act for this purpose.

While considering this item, notice may be taken of a small point concerneing Section 16(3) of the Bombay Act which empowers the Board to delegate powers to Committees of the Board. The words "so formed" occuring in this sub-section are evidently out of joint with the opening portion of the sentence which empowers the Board not to form a Committee (for which the Board do not evidently require any specific power), but to delegate any of their powers to any Committee already formed. Since that sub-section evidently envisages that the Board should issue directives and should discontinue or alter the constitution of any such Committee to which they had delegated any of their powers, the amendments indicated in the next column seem evidently called for.

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14. Proposed amendment of the Bombay Port Trust Act to reduce the fees payable to trustees for attendance at meetings of the Port Trust Board or of Committees of the Board.		Under sub-sections (3) and (4) of section 11 of the Calcutta Port Act, and also section 22 of the Madras Port Trust Act, the Central Government have power to prescribe fees to be paid to the trustees for attending meetings and also to prescribe conditions and restrictions which will apply to the payment of such fees. The Bombay Port Trust Act, however, does not confer any such powers on the Central Government but provides specifically for the payment to trustees of fees at rates prescribed in the Act itself for attending ordinary and special meetings of the Board and of special meetings of Committees of the Board, vide sub-sections(2) and (3) of section 15 of the Bombay Act. It ~~is~~ has been suggested to Government from time to time that one of the reasons why there is a cramble for seats on Port Trust Boards is the financial attraction which the fees that are payable to the trustees by or under the relevant Acts offers. The Governemnt of India accordingly decided in 1941, after consulting the Port Authorities, that fees payable to the trustees should be reduced at all these Ports and, as a first step, the fees payable at Madras were actually reduced with effect from Ist April 1942 by exectitive order issued by the Central Government under section 22 of the Madras Act. It was at the same time decided that the Bombay Act should be modified to bring about a reduction of fees and that action should simultaneously be taken to reduce the fees payable to the Commissioners at Calcutta.	<u>Admendemnt to the Bombay Port ~~T~~Trust.</u> (i) In section 15 - (a) the existing sub-sections (2) and (3) shall be omitted, and (b) the following new sub-section shall be inserted as sub-section(2):- "(2) The Central Government may determine ~~fmx~~ from time to time the fees, if any, to be paid to the trustees or to any class of trustees, other than the Chairman, for attendance at meetings and to prescribe conditions and restrictions upon and under which such fees shall be payable". (ii)~~m~~ In Section 73, clause(h) ~~shall~~ be omitted. [Note.- This is consequential change.]

The Calcutta.....

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		The Calcutta Port Commissioners are opposed to any reduction of the fees now paid to the Commissioners noe do they think that the fees payable at the various Ports should be on the same scale. The Bombay Port Trust are also opposed to any reduction in the scale of fees payable to the trusttees prescribed under the existing sub-section (2) road with sub-section (3) of section 15 of their Act. Neither Bombay nor Calcutta appear to share the view that the fees paid to trustees have constituted any attraction to persons to get elected as trustees. The Madras Port Ttust are apparently content with the reduced rates prescribed for the trustees of that port Trust from Ist April 1942.	
		Whatever may be the actual scales of fees payable to trustees at the different ports at any time, from the administrative point of view it is clearly unsatisfactory to have the rates fixed by statute as, in that event, any change in the rates cannot be brought about unless the relevant Act is amended. In the interst of flexibility, therefore, the Government of India consider it essential that sub-seations (2) and (3) of section 15 of the Bombay Port Trust Act should be replaced by a general provision on the lines of the provisions contained in sub-sections (3) and (4) of section 11 of the Calcutta Port Act and section 22 of the Madras Port Trust Act, so that the Central Government may have the necessary power to prescribe rates of fees payable to trustees of the Bombay Port Trust by executive order as they how have in respect of the Calcutta and the Madras Ports.	
		The specific amendment to sub-section (2) and (3) of section 15 of the Bombay Port Trust Act considered necessary is indicate in column x 4.	

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15. Suggestion of Mr. R.K.Sidhwa, M.C.A. (i) that specific provision should be made in the Port Trust Acts laying down a definite scale of fees payable to trustees, and (ii) that official trustees should not be paid fees.	The first point has already been dealt with under item No. 14 above. As for the second point, namely, that fees should not be paid to official trustees, it is admitted that there is less justification for paying fees to official than to non-official trustees, though, according to the Calcutta Port Commissioners, the opposite is the case. The question is under separate consideration and will be covered by executive orders. What has to be considered here is what legislative amendments will be necessary in the Port and Port Trust Acts to enable Government to issue the necessary executive orders when a final decision on the question of payment fees to official trustees has been reached. All that is considered to be necessary in this respect is to provide in the Acts that the Central Government shall have the power to prescribe the fees, <u>if any</u>, for the trustees or <u>any class of trustees.</u> The necessary provision has already been included in the new sub-section(2) to Section 15 of the Bombay Port Trust Act shown in column 4 against item No. 14. So far as the Madras Port Trust Act and the Calcutta Port Act are concerned , the verbal amendments considered necessary are indicated in the next column.	A. Amendment to the Madras Port Trust Act. In Section 22 - (i) After the Word "fees" where it first occurs, the words and commas "If any shall be inserted. (ii) After the word "Trustees", the words and comma" or to any class of Trustees', shall be inserted. B. Calcutta Port Act. In sub-section (3)of section 11, the words "or to any class of Commissioners" shall be inserted after the existing word" Commissioners".

16....

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16.	Question of introducing a measure of uniformity in regard to the provisions in the Port and Port Trust Acts relating to disqualification of Trustees.	The provisions relating to disqualification of trustees contained in section17 of the Calcutta Port Act, section 14 of the Bombay Port Trust act and section 10 of the Madras Port Trust Act are somewhat different and ~~thm~~ with advantage, be modified in certain respects in the interest of uniformity Whole the Bombay and Madras Acts specifically declare that a person who is either a bankrupt or has been to jail is diqualified to be a trustee, there is no such provision in the Calcutta Act, and even the provisions regarding disqualification of a person who has been in jail in the existing Bombay and Madras Acts are not uniform. While the Bombay Act prescribed that imprisonment for a term exceeding six months disqualifies a person from being a trustee and makes no provision for the removal of such disqualification by Government, the Madras Act gives full discretion to Government to determine whether the offence for which person has been conviced and sentenced to imprisonment (regardless of the period of the impriosnment to which he might have been sentenced) should so disqualify him. There are also none or two provisions in these sections which are superfluous or out-of-date and can, with advantage, be done away with. For instance, Section10(1)(a) of the Madras Act disqualifies a person to be a trustee, who is not a British subject or a subject of a State in Ludhia", and may very well be omitted. Similarly, ~~and~~ the words" or by the Parliament or incorporated by an Act of Parliament ..... or ~~otherwise~~ " occurring otherwise" in the first proviso~~s~~ to Section 17 of the Calcutta Act are perhaps out-of date. Furthermore, the interpretation of the terms "interest" and "interested", occurring in	A. Amendment to the Calcutta Port Act. For the existing section 17 the following section shall be substituted. "17(1). No person shall be qualified to be an elected Commissioner or to be a Commissioner appointed by name who - (a) is a bankrupt or undischarged insolvent; or (b) has been convicted and sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such conviction not having been subsequently reversed or quashed, and whose disqualification on account of such conviction has not been removed by an order, which the Central Government is hereby empowered to make, if it shall think fit in this behalf.

Section 14 and .....

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		Section 14 and 14 B of the Bombay Act and in Sections 10(1) and 23A of the Madras Port Trust Act are understood to have caused some difficulties in the past, ... To remedy these various defects, the amendments indicated in the next column are considered necessary.	(2) Every person other than an Ex-officio Commissioner of a Commissioner appointed by official designation who, at any time after he becomes as a commissioner, shall be absent from six consective meetings without having the permissionin that behalf of the Commissioners, or who, having such permission shall be absent from the meetings for a period exceeding one year, (a) and every such person who at any time after he becomes a Commissioner shall accept or agree to accept any office or place of profit under this Act, or (b) who shall, save with the sanction of the Central Government, participate or agree to participate in the profit of any work done by order of the Commissioners or be concerned or participate in the profits of any contracts entered into with the Commissioners, or (c) Who shall vote or take part in the discussion on any question coming up for consideration at a meeting of the Commissioners or of a Committee of the Commissioners, if the question is one in which he has any direct or indirect pecuniary interest by himself or his partner or in which he is interested professionally on behalf of a client or any agent for any person other than the crown or a local authority or a Railway Company, or (d),.....

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(d) who becomes disqualified for any of the reasons mentioned in sub-section (1) of this section, shall thenceforth cease to be a Commissioner and his office shall thereon become vacant;

Provided that no ~~commissioner~~ Commissioner shall vacate ~~his~~ his office by reason only of ~~his~~ his being a shareholder in any company, registered under the provisions of any Act for the registration of joint-stock companies passed by any Legislature in India, with which the Commissioners may enter into any contract, or by reason of his being interested in any loan of money to the Commissioners;

Provided also that no Commissioner shall vacate his office by reason of his being interested in any purchase or lease of land or premises, the sale or lease of which the Commissioners may determine on at a meeting under the provisions of this Act; or of his being interested in any agreement under which facilities may be granted for the landing or shipment of goods in return for stipulated income guaranteed to the Commissioners in consideration of their undertaking to construct or provide such facilities".

B. Admendment to the Bombay Port Trust Act.

In section 14,

(a) In sub-section (1) -

(i) in clause (b), the following words shall be inserted after the word "quashed", and before the word "or" :-

" and whose disqualification on account of such convication has not been removed by an order which the Central Government is hereby empowred to make, if it shall think fit, in this behalf;"

(ii) in cluase (d), after the word "Board", the following words ~~xxxxx~~ shall be added:-

" whose disqualifiaction on this account has not been specifically removed by an order of the Central Government".

(b) In sub-section (2), clause (f), for the word "two" the word "ten" shall be substituted.

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			C Amendment to the Madras Port Trust Act.
			(3) In section 10 -
			(a) In sub-section (1)
			(i) the existing clause (a) shall be omitted.
			(iii) the existing clause (b) shall be re-worded as follows-
			"(b) has been convited and sentenced to imprisonment for an offence punishhable with imprisenment for a term exceeding six months, or to transportation shsh conviction not having been subsequently reversed or quashed, and whose disqualification on account of such conviction has not been removed by an order, which the Central Government is hereby empowered to make, if it shall think fit, in this behalf:" and
			(iii) the following addition shall be made to clause (e) after the words "the Board" whre they occur for the second time:-
			"Whose disqualification on this account has not been specifically removed by an order of the Central Government".

Telegrams:-
"TRANSPORT"

Government of India
MINISTRY OF TRANSPORT.
.....

No. 2-P(9) /49.
New Delhi, the 3rd December 1949.

From

S.K.Ghosh, Esqr.,
Under Secretary to the Government of India.

To

The Secretary to the Govt. of Bombay,
Public Works Department,
Bombay.

Subject:- Revisionof the existing Port and Port Trust Acts.
.....

Sir,

In continuation of this Ministry's letter No. 2-P(1)/49 dated the 26th November 1949, I am directed to forward herewith for comments, if any, a further statement (Group 3) relating to the proposals for amendments to the existing Port and Port Trust Acts in respect of appointments to, and the determination of service conditions for, the posts of Chairman and officers and servants of the Port Authorities .

Yours faithfully,

Sd/- S.K.Ghosh.

Under Secretary to the Govt. of India

D.A.-Refd.
3.12.49.

Statement showing the various proposals requiring amendments to he Calcutta Port Act, 1890, the Bombay Port Trust Act, 1879 and the Madras Port Trust Act, 1905, for relating to the appointment of, and the determination of service conditions for the Chairman and officers and servants of the Port Trust Board.-Group 3.

Item No.	Brief description of the item.	Tentative decisions of the Government of India	Porposed amendments to the various Acts.
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1	Question whether the post of Chairman should be brought within the perview of Section 24 of the Bombay Port Trust. Act and the corresponding sections 34 and 30 of the Calcutta Port Act and the Madras Port Trust Act respectively.	Section 24 of the Bombay Port Trust Act requires that every order or regulation made by the Port Trust Board under the preceding four sections, namely 21, ~~22~~,22,22-A and 23 of that Act, in so far as the same relates to certain specified senior officers of the Port Trust, shall be subject to the previous sanctioned of the Central Government. The four sections referred to relate to the power of the Port Trust Board to create posts of officers and other staff, to prescribe conditions of service for such officers and staff and to make appointments, etc. against those posts. These four Sections do not empower the Board to determine any condition of service applicable to the Chairman except that Clauses(5) and (6) of Section 22, as amended in 1926, empower the Board to determine the conditions under. which ~~xxxxxxx~~the Chairman shall , on retirement, receive pensions, gratuities, or compassionate allowances and the amount of such pensions, etc., and also authorise the Board to allow the Chairman to join the Provident Fund which may have been established by the Board for the benefit of their officers and servants. Since the Post of Chairman is not included in Section 24, this means that the Board is authorised to....	A. Amendments to the Calcutta Port Act. (i). In Section 13A, the existing words and commas", o n application made to Government by theCommissioners in that behalf," shall be omitted. (ii) The following new Section shall be added as Section 13B. "13B. Notwithstanding anything contained in this Act, it shall be lawful for the Central Government to permit the Chairman ~~xxxxxxxxx~~,to join the Provident Fund Established by the Commissioners for the benefit of their officers and servants under Section 30A and to determine the conditions and restrictions upon and under which such permission may be given". B. Amendments to the Bombay Port Trust Act. (i). The words" and the Chairman" occurring in Clauses(5) and (6) ~~xxx~~ of section

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authorise to sanction pension, provident fund benefits, etc., for the Chairman without the previous sanction of the Government of India. This position is in spirit inconsistent with the provisions of Section 7 15(1) and 20 of the Bombay Port Trust Act under which the Central Government is empowered to appoint the Chairman, to determine the salary that salary that he should get, to grant him leave and to make officiating arrangements, when he is on leave.

Section 34 of the Calcutta Act and Section 30 of the Madras Act, which correspond to Section 24 of the Bombay Act, also do not contain any reference to the Chairman, but, since in the relevant Sections of the Calcutta and Madras Acts referred to in Sections 34 and 30 of those Acts respectively no reference is made to the post of Chairman, unlike Section 24 of the Bombay Act, there is no inconsistency as such in these Acts.

Apart from the questionof rectifying the inconsistency referrred to above in the Bombay Act, the question has to be considered whether any referece to the Chairman should ne made in Section 24, 34, and 30 of the Bombay, Calcutta and Madras Acts respectively. The Bombay Port Trust Boafe have expressed themselves against the inclusion of the post of Chairman in Section 24 of their Act, as they consider that it would be improper to bring the Chairman, who is the head of the Administration, within the perview of the regulations

(ii). The following two new sections shall be added as Section 20A and 20B:-

"20A. It shall be lawful for the Central Government to fix the amount of pension, gratuity or compassionate allowances, if any, which shall be paid to the Chairman on his retirement from office, and to determine the conditions under which the said pension, gratuity or compassionate allowances shall be so paid".

"20B. Notwithstanding anything contined in this Act is shall be lawful for the Central Government to permit the Chairman to Join the Provident Fund established by the Board for the benefit of their officers and servants under clause(6) of Section 22 and to determine the conditions and restrictions upon or under which such permission may be given".

C. Amendment s to the Madras Port Trust Act.

The following new Sections shall be added as Sections 21A and 21B:-

"21A. It shall be lawful for the Central Government to fix the amount of pension, gratuity or compassionate allowances, if any, which shall be paid to the Chairman which shall be paid to the Chairman on his retirement from office, and to determine the conditions under whichthe said pension,

made by.....

gtatuity or.....

made by the Board for their officers. The Board also consider that since the Chairman is an officer of Government, the power of granting him leave, etc., should rest solely with the Government. It is inferable from this that the Bombay Port Trust have no objection to the specific reference of to the Chairman included in the existing Clauses (5) and (6) of Section 22 of their Act being omitted therefrom if it is so decided by Government. The Calcutta and the Madras Port Authorities are also not in favour of Sections 34 and 30 respectively of their Acts being amended so as to bring the Chairman within the scope of these Sections and the Govt. of India agree with this view.

Under the existing provisions of all the three Acts, the Central Government is empowered to appoint the Chairman, fix his salary, grant him leave and make officiating arrangements in his place during his absence on leave, vide Sections 7,16(1) and 20 of the Bombay Act, 8(1) , 11 and 12 of the Calcutta Act, and 8(1), 19 and 21 of the Madras Act. It is, therefore, logical that all questions relating to service conditions of the Chairman including questions regarding his pension, provident fund benefits, etc., should be determined by the Central Government and not by the Port Authority concerned. In fact, Section 13A of the Calcutta Act already provides for the amount of pension, gratuity or compassionate allowances to be paid to the Chairman being fixed by the Central Government butthis Section is silent in regard to provident fund benefits, if any, that may have to be allowed to the Chairman. Also Section 13A of the Calcutta Act contains an unnecessary restriction inasmuch as it requires the Central Government to determine the pension, etc., payable to the Chairman only on application made to them by the Commissioners in this behalf.

The.....

gratuity or compassionate allowances shall be so paid.

"21B. Notwithstanding anything contained in this Act it shall be lawful for the Central Government to permit the Chairman to join the Provident Fund Established by the Board for the benefit of their officers and servants under sub-section (8) of Section 28 and to determine the conditions and restrictions upon of under which such permission may be given".

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		The Government of India consider that necessary amendments should be made to all the three Acts so that the Central Government may have the exclusive power not only to fix pension, etc., payable to the Chairman but also to permit him to join any Provident Fund established by the Port Authority for their officers and servants. In fact, the Madras Port Trust have themselves asked for such amendments in their Act.	
		The specific amendments considered necessary are indicated in Column(4).	
2	Question whether the Port Trust concerned should be consulted before the Chairman is appointed by Government.	Section 8(1) of the Calcutta Port Act lays down that the Chairman shall be appointed " after consultation with the Commissioners". The Bombay and the Madras Port Trust Acts, however, do <u>not.</u> require Government to consult the Port Trust Board before appointing the Chairman, <u>vide</u> Sections 7 and 8(1) respectively of the Bombay and the Madras Acts.	<u>Amendment to the Calcutta Port Act.</u> In sub-section(1) of Section 8, the existing words "after consultation with the Commissioners" shall be omitted.
		In the interests of uniformity, and also as a matter of administrative policy, the requirement of Section 8(1) of the Calcutta Act placing Government under a statutory obligation to consult the Commissioners before the Chairman is appointed should be done away with. There is no objection to the outgoing Chairman being consulted by Government informally or dami-officially in regard to the appointment of his successor, but the Port Trusts should not be given an official voice in the choice of the man who is going to preside over them and the discretion to appoint anyone as the Chairman must rest solely with the Government.	
		The amendment cosidered necessary for this purpose is indicated in the next column.	

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3	Question of amendment of the Port Trust and Port Acts to empower Government to fix allowances(as district from pay), if any, for the Chairman, or the person appointed to act as Chairman when proceeds on leave.	Under Section 15(1) of the Bombay Port Trust Act, the Chairman is to receive such salrary as is from time to time determined by the Central Government. unlile Section 21 of the Madras Act, or sub-sections (1) and (4) of Section 11 of the Calcutta Act, Government have no power under the Bombay Act to fix the allowances, if any, that may at any time be paid to the Chairman in addition to his salary and to cetermine the conditions under which the salary and such allowances, if any, should be paid. This lucuna in the Bombay Act requires rectification. Section 13(1) of the Calcutta Port Act and Section 20 of the Bombay Port Trust Act empower Government to fix the salrary of any person appointed to officiate as Chairman when the regular Chairman proceeds on leave, but no specific mention has been made in these Sections of the allowances, if any, to be paid to the officiating Chairman. Section 21 of the Madras Act is capable of the interpretation that Government have the necessary power to determine not only the salary but also the allowances if any, admissible to such officiating incumbents in leave vacancies. The Bombay and the Calcutta Acts are, therefore, inadequate in this respect and opportunity should be taken to rectify this defect. The amenments considered necessary are indicated in the next column.	A. <u>Amendments to the Bombay Port Trust Act.</u> (i) The existing sub-section(1) of Section 15 shall be replaced by the following new sub-section:- "(1). The Central Government may, from time to time, determine the salrary and allowances, if any, to be paid to the Chairman and may presceibe any conditions and restrictions which shall apply to the payment of such salary and allowanees.". (ii). In Section 20, the words "and allowances, if any," shall be added after the existing word" salary" occurring therein. B. <u>Amendment to he Calcutta Port Act.</u> (i) In Section all, sub-section(1) after the existing word"allowances", the words "if any" shall be added. (ii). In section 13, sub-section(1), the words" and allowances, if any" shall be added after the word" salary" occurring therein. C. <u>Amendment to he Madras Port Trust Act.</u> In Section 21, after the existing word "allowances" where it occurs for the second time, the words "if any" shall be inserted.

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4	Amendment to Section 11(1) of the Calcutta Port Act to empower Government to vary the salary and allowances of the Chairman.	The existing wording of Section11(1) of the Calcutta Act gives the impression that since the salary and allowances payable to the Chairman have been determined by the Central Government, there is no power available to them to vary the salary or the allowances. This impression derives support from the fact that the words"from time to time" are conspicuous by their absence in sub-section (1) --- conspicuous because these words occur in sub-section (2) of the same Sectionin relation to the salary and allowances payable to the Deputy Chairman. Since Section 15(1) of the Bombay Act and Section 21 of the Madras Act expressly permit the Central Government to determine the remuneration of the Chairman " from time to time", it is considered desirable to take this opportunity to amend section 11(1) of the Calcutta Act. The amendment is indicated in next column.	Amendment to the Calcutta Port Act. In sub-section(1) of Section 11, the words" from time to time" shall be inserted after the existing words "Central Government".
5	Suggestion that the words"or otherwise" should be substituted for the words "or other allowances" in the existing Section 21 of the Madras Port Trust Act.	This Suggestion has been made by the Madras Port Trust Board but the Board have not explained why they consider this amendment necesary. Apparently, they wish to make it clear that the Central Government have power not only to determine the allowances admissible to the Chairman while he is on leave, but also while he is on duty, but, it is feared, the suggested amendment will not be sufficient to make this intention clear. The expression"leave allowances" occurring in section 21 does not stand merely for the allowances admissible while the Chairman is on leave, but is intended evidently also to included what is ordinarily called leave salary, i.e. salary admissible when the incumbent is	A-Amendment to the Madras Port Trust Act. In Section 21, for the words "leave allowance s or other allowances", the words" leave salary and allowances, if any," shall be substitued. [Note - This amendment also covers the slight amendment to Section 21 indicated against item 3.] B-Amendment to the Bombay Port Trust Act. In the second para of section

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		on leave. The expression "leave allowances" was apparently originally borrowed from the G.S.R., and it is considered desirable that in all the three Acts, this expression where used should be substituted by the current expression "leave salary and allowances". The specific amendments are indicated in the next column.	20, for the words "The allowances, if any, ", the words" The leave salary and allowances, if any," shall be substituted. C. Amendment to the Calcutta Port Trust Act. In section 13, sub-section (1), the words" leave salary and allowances, if any," shall be substituted for the existing words" leave allowances".
6. Proposed amendment of the Karachi Port Trust Act to provide for the payment of retiring gratuities to the surviving relatives of Port Trust employees who died while still in the service of the Port Trust.		The need for an amendment of this nature in the Karachi Port Trust Act was felt as long ago as 1936 becuase, while Clause(7) of Section 22 of that Act provided for the framing of regulations determining the conditions under which pensions, gratuities or compassionate allowances could be paid to the surviving relatives of any of their officers or servants killed in the execution of their duty, there was no provision in that Act empowering the framing of regulations by the Board for the payment of gratuity to the widow and children of employees who died a natural death while still in service. The Government of India is no longer conterned with the Karachi Port Trust Act but what has been examined under this item is whether any amendment is called for in the Bombay, Calcutta or Madras Act in this respect. The Bombay Port Trust have asked for power to make rules on the lines of the analogous State Railway Rules so as to provide for the payment of retiring gratuities to the surviving relatives of their employees dying while still in service.	

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Adequate power is, however, already avalilable undeer Clauses(7) and (8) of Section 22 of the Bombay Act for this purpose, and it is not clear why the Bombay Port Trust have felt the need for any further powers. It is possible that what Bombay asks for is that the requirment that the regulations, which they are now empowered to frame under Clause(8) of Section 22 for payment of gratuitites to the widows or children of their officers and servants who may die while still in service shall be made with the previous sanction of the Central Government, shall be done away with. If this is so, then it is regretted Government cannot agree.

The Calcutta Port Commissioners do not want any additional provision in their Act in this respect as the say that they have already got sufficient powers. This is correct, vide clause(ii) of Section 30A and Clause(h) of Section 31(i) of the Calcutta Port Act.

The Madras Port Trust have also stated that no amendment in their Act is necessary as they have Sufficient power in this respect vide Sections 28(7), 28A, and 94 of the Madras Act. A perusal of these Sections indicates that the Port Trust Board have the necessary power to frame regulations for the grant of relief to the surviving relatives of employees who die while still in the service of the Port but, unlike Clause(7) of Section 22 of the Bombay Act, and clause(h) of Section 31(i) of the Calcutta Act, there is no specific provision in the Madras Act to enable the Board to frame regulations for the grant of pensions, gratuities, etc. to the surviving relatives of men who are killed in the execution of their duty. This is, however, not a lacuna in the Act as Government have been advised that the power to frame regulations in regard to the payment of gratuities, etc. to the surviving relatives of men who die in service, covers also

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		Power to frame similar regulations in respect of the surviving relatives of men who are killed in the execution of their duty. It is open to the Board to frame different sets of regulations for the grant of relief in respect of persons who die a natural death while in service and of persons who are killed in the execution of their duty. In this view, it is agreed that no amendment to the Madras Act is necessary in this respect.	A. Amendment to the Cacutta Port Act. (i) After Clause(g) in sub-section (1) of Section 31, the following new Clause shall be inserted as Clause (gg):- "(gg).- for authorising the payment of contributions to any welfare or loan fund or funds which may be established by the Commissioners for the benefit of the officers and servants appoint ed under this Act. Provided that no such welfare or loan fund shall be established w without the previous sanction of the Central Government; and the ma ximum amount to which any such fund may be allowed to accumulate shall be fixed from time to time by the Central Government." (ii) In sub-section (3) of Section 31, a consequential amendment is called for, but this has been taken care of under item. 9, where a re-draft of this sub-section has been proposed.
7	Proposed amendment to the Calcutta Port Act to enable the Commissioners to create and maintain Welfare and Loan Funds for their staff.	"In 1938, the Calcutta Port Commissioners started a Loan Fund with the object of granting temporary laons to their inforiour staff and to finance this Fund by making advances to it from the revenues of thePort. The Port Commissioners were also running a lfare Fund since 1930 for the benefit of their employees. The question arose whether, under the Calcutta Port Act, the Port Commissioners were empowered to start and to run such Funds. Contrary legal opinion was expressd on this question but the Government of India were advised that in view of (a) Sections 30A and 31(1) of the Calcutta Act which contain expess provision for the establishment of Provident Fund for the benefit of the Port employees, and (b) Clause(6A) of Section 22 of the Bombay Port Trust Act and Clause (gg) of Section 35(1) of the Chittagong Port Act which were specifically inserted in those Acts to make provision for the creation of Welfare Funds, it would be advisable to have the Calcutta Act amended so as to empower the Port Commissioners specifically to run such Funds. The Calcutta Port Commissioners have no objection to their act being suitable amended on the lines of Section22(6A) of the Bombay Act and Section 35(1) (gg) of the Chittagong Act. The Madras Port Trust are also agreeable to provision	B. Amendment to he Madras Port Trust Act. (i) In Section 28, the following new Clause shall be added as Clause (6A):- (6A).....

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		on the lines of Section 22(6A) of the Bombay Act being made in the Madras Port Trust Act which at present does not give the Port Trust specific power to start Welfare Funds for the benefit of their employees. The Government of India agree that provision should be made both in the Calcutta Port Act and in the Madras Port Trust Act for the purpose, but that, in view of Clause(6A) of Section 22 of the Bombay Act, no provision is neceeary in that Act. It is, However, noticed that while Section 35(1) (gg) of the Chittagong Act reserves to Government the Power of previous sanction before any Welfare Fund or Funds can be established by the Port Authority, and also, the power to fix the maximum amount to which such Fund or Funds should be allowed to accumulate, there is no such reservation in favour of the Central Government under Section 22(6A) of the Bombay Act, though Section 22(6B) of the Bombay Act which permits the Board to start special Fund or Funds contains such reservation in favour of the Government. On the analogy of the proviso in Section 35(1) (gg) of the Chittagong Act and Section 22(6B) of the Bombay Act, the Central Government consider that power should be reserved to them under all the three Acts to approve of the starting of any Welfare or Loan Funds before such Funds are actually started, and also, to fix the maximum limit of accumulation for such Funds. The specific amendments considered necessary are indicated in the next column.	"(6A)- for authorising the payment of contributions to any welfare fund or funds which may be established b y the Board for the benefit of the officers and servants appointed under this Act. Provided that no such welfare fund shall be stablished without the previous sanction of the Central Government; and the maximum amount to which any such fund may be allowed to accumulate shall be fixed from time to time by the Central Government". (ii). In the proviso at the end of Section 28, a consequential amendment is called for, but this has been taken care of under item No, 9, where a redraft of the proviso has been proposed. C.- <u>Amendment to the Bombay Port Trust Act.</u> In the proviso under Clause(6B) of Section 22, the words"welfare fund or" shall be inserted before the words" special fund" whereever they occur.

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8	Question of the addition of a new sub-section(2) in Section 74 of the Madras Port Trust Act to authorise the Board to incur expenditure on the provision of amenities for employees.	The Madras Port Trust have suggested the inclusion, on the analogy of Section 79(2) of the Tuticorin Port Trust Act, of a new sub-section to Section 74 of their Act to empower the Board to incur expenditure with the special sanction of the Central Government on the provision of amenities for the recreation of their employees or otherwise for the promotion of the well-being of such employees. It is not possible to mention exhaustively under section 74 all the objects on which the Port Trust Board can expend their funds. In Section 74, there is already a clause -- clause(8) --- which permits of expenditure being incurred "generally for the purposes of the Act." It is also proposed under the amendment proposals considered under Group 6 to insert an omnibus provision in Section 74 to authorise the expenditure of funds on any purposes, whether or not such purposes are germane to the object of the Port Trust, with the special sanction of the Central Government. It is, therefore, called for on the proposal of the Madras Port Trust Board to add a new sub-section to Section 74 of their Act.	

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9.	Question whether the control of the Central Government in the matterof of rules prescribing conditions of service of Port Trust employees should be tightened up.	As long ago as ~~1922~~ 1906, the Government of India laid down as a general principle for the guidance of the Local Governments, the where the Port Trust Acts gave those Governments statutory powers of control over the grant by any Port Authority to its employees of allowances, pensions, etc.,, no concessionshould, without the previous sanction of the Government of India, be allowed to be given to such employees which would not be admissible under the Civil Service Regulations to Government servants of corresponding rnaks . While this principle is generally followed by the Port Authorities, there was in evidence during the last War some tendency on their part to sanctionfor their employees concessions which were more liberal than those admissible to Government servants of corresponding ranks. Although the Government of India had the power to intervene in such cases, through the control they are empowered to exercise over the annual Budget Estimates of the Port Trusts concerned, in practice, they did not actually have to intervene in that manner. The Government of India, however, feel that they should have more direct power to enforceor the general principle indicated above, if and when necessary, instead of having to take action through their existing power of control over the Budget. The Port Trusts are naturally not in favour of any greater measure of control being taken by the Central Government than what is already possessed by them under the existingprovisions of therelevant Acts but it is regretted in this matter the views of the Port Trusts cannot be fully accepted. As has already been noticed under item No. 1, Sections 24, 30 and 34 of the Bombay; Madras....	A. <u>Amendment to the Calcutta Port Act.</u> (i) In Section 31, the existing sub-section (3) shall be replaced by the following new sub-section:- "(3) Rules made under sub-section (1) of this Section shall not take effect unless and until they have been confirmed by the Central Government". (ii) For the existing Section 34, the follwing new Section shall be substituted:- "Every order made by the Commissioners under Section 30 or 32 of under the rules framed in purpuance of Section 31, shall, so far as the same relates to the Deputy Chairman, or any officer whose maximum monthly salaray is one thousand rupees or more be subject to the Sanction of the Central Government". B,- <u>Amendments to the Bombay Port Trust Act.</u> (i) In Section 22, the following fresh provision shall be inserted at the end:- " Provided that the regulations framed under this Section shall not take effect unless and until....

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Madras and the Calcutta Acts respectively stipulate that prior sanction of the Central Government is necessary before any order or regulation framed by the Port Authority, affecting certain specified senior officers or specified class of senior officers, can be given effect to Government have thus got power to ensure that the service conditions applicable to such senior officers of the Port Authority correspond with service conditions applicable to officers of similar rank in Government service. Unfortunately, however, there is no uniformity in regard to the rank or class of officers in respect of whom the Government have this power under the three Port Acts. While under Section 34 of the Calcutta Act, this power is available to the Central Government salary amounts to or exceeds Rs. 1000/-. under Sections 30 and 24 of the Madras and Bombay Acts respectively, practically only the existing Heads of Department alone come within the scope of the Central Government's contorl. Also, while under Sections 24 and 30 of the Bombay and Madras Acts respectively, the Central Government's approval is required even in regard to the creation of Senior posts mentioned in those Sections and the determination of salries, fees and allowances for the incumbents of such posts, no power is available to the Central Government under Section 34 of the Calcutta Act in respect of the creation of, and the determination of the pay, allowances, etc. for , posts carrying a salary of Rs. 1,000/- and above.

It is inconventient and inelastic to specify the posts individually in these Sections. It is felt that, on the analogy of Section 34 of the Calcutta Act, Provision should be made in the Bombay and the Madras Acts also so as to bring within the scope of sections 24 and 30 respectively of the

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until they have been confirmed by the Central Government." and the words" with the previous sanction of the Central Government" occuring in clause(8) shall be omitted.

(ii). The existing Section 24 shall be replaced by the following new Section:-

"24.-Every order made by the Board under Section 21, 22(A) or 23 or under the regulations framed in pursuance of Section 22, shall, so far as the same relates to he Deputy Chairman, or to any officer whose maximum monthly salary is ruppes one thousand or more, be subject to the sanction of the Central Government".

C. Amendment to he Madras Port Trust Act.

(i) In section 28, the existing proviso shall be substituted by the following fresh provision:-

"Provided that the regulations framed under this Section shall not take effect unless and until they have been confirmed by the Central Government".

(ii). Existing Section 30 shall be re;aced by the following Section:-

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		two latter Acts all officers whose monthly salary amounts to or exceed s Rs. 1,000/- in the case of Bombay, and Rs. 500/- in thecase of Madras. The lower limit is justified at Madras as it is smaller port compared to Calcutta and Bombay. Further, the limit of Rs. 500/- for Madras is also justified on th basis of Section 24 of the Karachi Port Trust Act which prescribes this limit as, before the partition, the Madras Port was, in many ways, comparable to the Karachi Port. It is also propo sed on the analogy of Section 24 and 30 of the Bombay and Madras Acts respectively, to include a reference in Section 34 of the Calcutta Act to Section 30 of that Act so that the Central overnment's sanction may be necessary to the creation of pOsts with a salray or Rs. 1000/- and above and the deiermination of fees and allowances if any, attached to such posts. It is also proposed to make it clear in Sections 24, 34, and 30 of the Bombay, Madras and Calcutta Acts respectively that the salary limits referred to therein relate to the maximum of the scale of pay. Further, it is proposed to omit the word "previous" occurring in these Sections so that in cases where, owing to exceptional circumstances, orders have to be made and given effect to immediately by the Port Authority and there is no time to obtain the ~~Port Authority~~ prior sanction of the Government, there may be not difficulty. This word had caused difficulty in the post and it is feet that its ommission would not affect the position in ordinary cases as the port authority may be told not to anticipate Govt. sanction except in really every cases. The specifica amendments that are considered necessary to give effect to the various proposals made above are indicated in the next column. Under Section 31(1) of the Calcutta Act, the Commissioners can frame rules for regulating leave and leave salary of their employees and.....	"30.- Every order made by the Board under Section 27 or 29 or under the regulations framed in pursuance of section 28 shall, so far as the same related to any officers whose maximum monthly salary is rupees five hundred or more, be subject to the sanction of the Central Government."

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		and the remuneration of persons acting in leave vacancies and for regulating the period of service, the retirement benefits, the provident fund contributions and relief to the surviging relatives of employees killed in the exectuionof duty. All such rules, except rules framed under Clause(f) of Section 31(1), which relate to the authorising of the payment of contributions to any provident fund which may be established by the officers and servants of the Board. are subject to prior confirmation by Government under Section 31(3). Similarly, under the Madras Port Trust Act, the Central Government's approval is necessary to regualtions framed by the Board under Clauses (5) to (7) of Section 28 of that Act relating to pensions, etc., contributions to Provident Fund and gratuities or compassionate allownaces to officers or their relatives. No such sanctionis required in respect of regulations framed by the Board under Clauses (1) to (4) of Section 28 of that Act relating to leave, leave salary and allowances, remuneration of incumbents holding leave vacancies and the period of service of employees. Under the Bombay Act, however, there is no provision for obtaing the approval or confirmation of Government in relation to regulations framed by the Board under Section 22 except for regulations relating to payment of gratuities to the widows or children of employees who may die in the service of the Board. Not only as a measure of uniformity, but also to vest the Central Government with the necessary power to prevent the Port Authorities from sanctioning through rules or regulations framed under Sections 31, 22 and 28 of theCalcutta, Bombay and Madras Acts respectively, concessions for their employees which are more liberal than those admissible to Government servnats of correspeonding rank, it is considered necessary to make the amendments indicated in the next column in these Sections.	

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10	Question of amending the various Port and Port Trust Acts to provide for uniformity in the matter of existing conditions of service obtaina at the various Major Ports.	The Calcutta and the Bombay Port Authorities are opposed to the idea of strict uniformity in regard to Service Rules applicable to the employees at the different ports as they feel the conditions differ at different ports and it is neither practicable nor desirable to have such uniformity. The Madras Port Trust have however no objection to such uniformity as can be achieved without affecting their existing powers under the Madras Act. The conditions of service applicable to Port Trust employees are mostly laid down by rules or regulations framed under sections 31,28, and 22 of the Calcutta, Madras and Bombay Acts respectively. As stated in the discussions under item No. 9, the Central Government either already have or willhave, if the amendments contemplated under that item are finally accepted, the requisite power to approve the rules or regulations relating to service conditions before rules or regulations come into force. Under this power, it will be possible for the Central Govern-ment to ensure as much uniformity as possble in the various rules or regulations applicable to the differ-ent ports when they come up for revision or are ~~and regulations will generally be drawn~~ replaced by new rules. In fact, since these rules and regulations w ll generally be drawn up on the lines of the corresponding rules applicable to Government servants, a measure of uniformity will automatically be achieved at the varios ports in regard to service conditions of employees. It is not considered necessary for Government to take powers to review the existing rules	A-Amendment to the Calcutta Port Act. In section 31, sub-section (1) the opening words "The Commiss oners in meeting shall, from time to time frame rules" shall be substituted by the words "The Commissiners in meeting may, and upon the requion-tion of the Central Govenment shall, from time to time, frame rules -" B.- Amendment to the Bombay Port Trust Act. In section 22, for the opening words "The Board shall from time to time frame regulations-", the words "the Board may and upon the such requisition of the Central Govern-ment shall, from time to time frame regulations-" shall be substituted. C.- Amendment to the Madras Port Trust Act. In section 28, for theopening words "The Board May, from time to time, frame reghations-" the words "The Board may, and upon the requisition of the Central Government shall, from time to time frame regulations-" shall be substituted.

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		and regulations in force at the varios Major Ports with a view to bringing them in line with the corresponding rules applicable to Govt. Servans. It is, however, considered necessary that power should be taken by Govt. to enforce the revision of the rules and regulations when Government themselves revise their corresponding rules. For this purpose the amendment considered necssary is indicated in the next column.	
11. Question of a ending section 32 and 33 of the Calcutta Port Act so as to invest the Chairmanwith full powrs in regard to the appointment etc., of officers and staff drawing not more than Rs. 200/- per mensem and to entrust to him certain specified powers in regard to appointment etc. of officers and servans of the Commissioners drawing a higher salary than Rs. 200/-		items 11 and 12 are As/ inter-related, they have been dealt with together.	
		At Calcutta, the Chairman is at present authorised under section 32 of the Calcutta Act to exercise the powers of appointment, promotion, punishment etc. in regard to empleyees whose monthly salary does not exceed Rs. 200/-. Evern in regard to such employees, however, the powe" of dispensing with services on gronds other than misconduct, the power to retire onpension etc., or to grant pension etc. to those who may be injred or to the surviving relatives of those who may be kileed in the execution of their duty are reserved to the Commissioners, vide section 33, and all /pwers of appointment, etc, in regard to staff drawing monthly salary of more than Rs 200/- are vested in the Commissioners subject to Govt. sanction under section 34 in respect of officers on Rs. 1,000 and above.	A. Amendment to the Calcutta Port Act. (1) For the existing section 32, the follwing section shall be substituted. "32(1) Subkect to the provision of the rules framed under section 31 and of the schedule for the time being sanctioned by the Commissioners under section 30, and subject also to the provisions of section 34, the power of appointing, promoting spending, dismissing, fining, reducing or granting leave to the officers and servants of the Commissioners and of disposing of all other questions relating to the services of such officers and servants shall be exercised by the Chairman or in the absence of the Chairman, by the Dy. Chairman, in case of officers and servants whose maximum monthly salary exclusive of allowances does not exceed rupees five-hundred; and in every other case by the Commissi--ers in meeting.
12 Question of amending section 23 of the BombayPort Trust Act to empower the Chairman to exercise the powers of appointment etc. in regard to the employees of the Board whose monthly		. At Bombay, the position is similar to that of Calcutta, vide section 23 read with section 24 of the Bombay Act, the chief difference being that while, in Calcutta the pay limit of employees in regard to whom the Chairman is competent to exercise the powers of appointment, etc. is fixed at Rs. 200/- only, at Bombay this limit now stands at Rs. 500/-. Further , while at	
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	minimum slary Rs. 500/-	Bombay all other questions relating to employees of the port can be disposed of by the Chairman, subject to the rules framed by the Board, there is no such power available to the Chairman at Calcutta. At Madras the position is akin to that of Bombay vide section 26(3), 29 and and 39 of the Madras Act, only difference being that the limit of salary of employees whose appointments etc. can be decided by the Chairmanis Rs. 300/- at Madras, against Rs. 500/- at Bombay. The Calcutta Port Commissioners want the Chairman to exercise complete powers including powers to dispense with the services in regard to the staff drawin pay not exceeding Rs. 200/-. They also desire that the Chairman should exercise complete powers in respect of other officers and servants including officeys coming within the purview of section 34 of their Act except the power to make first appointments or to dismiss or otherwise dispense with the services of the staff drawin pay exceeding Rs. 200/- p.m. The Chairmna, Bombay Port Trust wants that his present powers in regard to appointment, promotion, etc., of the staff whose monthly salary is Rs. 500/- should be exercised by him in relation to all employees the minimum of whose scale of pay is Rs. 500/- on the analogy of the existin progision under section 80A of the City of Bombay Municipal Act. The Madras Port Trust have not asked for any change in their existing powers or in the existing powers of the Chairman in this respect.	(2) Any officer or servant of the Commissioners in respect of whom any order suspending, dismissing or reducing him in rank has been passed in pursuance of the foregoing subsection, shall have a right of appeal the Commissioners in meeting if such the order has been passed by the Chairman or the Deputy Chairman or to the Central Government if such order has been passed by the Commissioners in meeting whether under their own powers or with the sanction of the Central Govt. under section 34". (2) The existing section 33 shall be omitted. B. Amendment to the Madras Port Trust Act. (1) For the existin section 29, the following section shall be substituted:- "29(1) Subject to the provisions of the regulations framed under section 28 or 92 for the time being in force and of the schedule for the time being sanctioned by the Board under section 27, and subject also to theprovisions of section 39, the power of appointing, promoting, suspending, dismissing, fining, reducing, or granting leave to the officers and servants of the Board and of disposing of all other questions relating to the services of such officers and servants, shall be exercised by the Chairman in the case of officers andservans showe minimum . . . monthly salary exclusive of allowances does not exceed three-hundred rupees; ... and in every other case by the Board.

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		In spite of the precedent contained in section 80A of the City of Bombay Municipal Act, the Minimum pay of the post is not regarded as a suitable criterion to be adopted for the purpose. The Maximum pay of a post generally indicates the status and responsibility attaching to the post and this is the criterion that, it is felt, should be adopted. The port authorities do not follow the classification of services as in Government service, otherwise the most desirable criterion to adopt would have been to empower the Chairman to exercise full powers in respect of the class III (subordinate) and class IV (Inferior) appointments. The powers in regard to appointments etc., should, it is considered, be exercise by the Chairman in relation to employees, whose monthly maximum salary exclusive of allowances is Rs. 500/-, at Calcutta and Bombay, and Rs. 300/- at Madras. These limits are the same as at present prescribed under the Bombay and Madras Acts and only in the case of Calcutta it involves an increase in the powers of the Chairman, but in view of the Bombay precedent this is considered desirable. There is also no objection to the Chairman disposing of all other questions relating to the services of the employees of the the port whose maximm salray is Rs. 500/- or less but it is not preposed to go further. In this connection, it is also considered necessary to provide for an appeal to the Board against any order issued by Chairman awarding punishment to any member of the staff whose maximum pay is Rs. 500/- or less at Calcutta and Bombay and Rs. 300/- or less at Madras. Staff whose maximum salary is higher than the respective limits at the three ports, should, it is considered, also be given a right of appeal against any order awarding punishment against them issued by the Commissioners in meeting or the Port Trust Board. In such cases, the appeal may lie to the Central Government	(2) Any office or servant of the Board in respect of whom any order suspending, dismissing or reducing him in rank has been passed in pursuance of the foregoing sub-section, shall have a right of appeal to the Board if such order has been passed by the Chairman, or to the Central Govt. if such order has been passed by the Board whether under their own powers or with the sanction of the Central Government under section 30. (2) The existing sub-section (3) of section 26 shall be omitted. Amendment to the Bombay Port Trust Act. For the existing section 23, the following section shall be substituted:- "23 (1) Subject to the provisions of the regulations framed under section 22 or 72 for the time being inforce and of the schedule for the time being sanctioned by the Board under section 22, and subject also to the provisions of sections 24, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board and of disposing of all other questions relating to the services of such officers and servants, shall be exercised by the Chairman in the case of officers and servants whose maximum monthly salary exclusive of allowances does not exceed five hundred ruppees ; and in

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	whether the order appealed against is issued by the Commissioners Board under their own powers or is issued by them after obtaining the sanction of Central Government under sections 34, 24 and 30 respectively of the Calcutta, Bombay and Madras Acts. The specific amendments considred neceesary are indicated in the next column.		every other case by the Board. Provided that the Chairman may upon such terms as he shall think fit and subject to the aforesaid provisions and regulations and to the Chairman's powers of revision and control delegate to time head of any department for the time being all or any of his powers under this sectionin respect of officers and servants of the department whose minimum monthly salary does not exceed three hundred rupees. Explanation- In this section the words "head of any department" shall include the Cheif Accountant, the Socretary, the Chief Engineer, the Railway Manager, the Deputy Conservater the Docks Manager, the Manager, and and Bunders Department, the Controller of Stores and the Chief Officer of any other department which may be constituted by the Board; they shall also include include any officer acting for the time being in any of the aforesaid capacities. (2) Any officer of servan of the Board in respect of whom any order suspending dismissing or reducing him in rank has been passed in pursuance of the foregoing sub-section, shall have a right of appeal to the Board if such order has been passed by the Chairman, or to the Central Government if such order has been passed by the Board whether under their own powers or with the sanction of the Central Government under section 30. A.....

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13	Question of adding an ominibus clause to section22 of the Bombay Port Trust Act to enable ~~the~~ the Trustees to frame rules relating to service conditions not covered ~~and~~y the existing clause of that section.	Since section 22 of the Bombay Act which empowers the Board to frame regulations to regulate the grant to their staff of leave, pension, provident fund benefit, etc., is not exhaustive, and does not cover all other conditions of service e.g., medical regulations, conduct rules, etc., the Bombay Port Trust have suggested the addition of an ominbus clause to this section to enable the Board to frame regulations relating to such terms and conditions of service for their employees as are not now expressly convered by the varios clauses of that section. The Government of India agree to such a provision being made not only section 22 of the Bombay Port Trust Act but also in the corresponding sections 31 and 28 of the Calcutta and Madras Acts respectively. All such regulations that may be framed under the proposed new clause, should, however be subject to the prior approval or confirmation of the Central Government as proposed under item No. 9. The specific amendment considered necessary is indicated in the next column.	A. Amendment to the Calcutta Port Act. In section 31, sub-section (1), the following new clause shall be added as clause (k) "(k) for regulating any other matter concerning the conditions of service applicable to the officers and servants of the Commissioners their rights and privileges, not covered by any of the foregoing clauses". B. Amendment to the Bombay Port Trust Act. In section 22, the following new clause may be added as clause 9:- "(9) for regulating any other matter concerning the conditions of service applicable to the officers and servants of the Board, their rights and privileges, not covered by any of the foregoing clauses". C. Amendment to the madras Port ~~Trust~~ Trust Act. In section 28, the following new clause shall be added as.....

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			as clause (8) :- "(8) for regulating any other matter concerning the conditions of service aplicable to the officers and servants of the Board, their rights and privileges, not covered by any of the foregoing clauses".
14.	Proposed amendment of the Karachi Port Trust Act to enable an officer of the port Trust being appointed as Chairman with coninuing provident fund rights.	Although this item refers to Karachi with which the Govt. of India are no longer concerned, it has been included because of the general applicability of the question to the Major Ports in post-partition India. In 1945, when the Chief Engineer of the Karachi Port Trust was appointed as the Chairman of the PortTrust, it came to notice that there was no specific power under the Karachi Port Trust Act under which an officer of the Board could be "promoted" as the Chairman with continuing Provident Fund rights, in view of the of the fact that Section 15(1)(c) of the Karachi Port Trust Act expressly provided that a person should be disqualified to be a trustee who held ~~any~~ any office or place of profit under the Board. From the point of view of administrative convenience, it is sometimes essential to appoint a Ports Trust employee to hold the office of a Chairman whether as a regular or as an officiating arrangement. In fact in Major Ports where there is no post of a Deputy Chairman like Bombay or Madras, it is sometimes convenient to appoint a senior officer of the Port Trust to act as Chairman in addition to his duties as officer of the Board. So far as the Madras Port Trust Act is concerned, section 10(1) (d) of the Madras Act prescribes, like section 15 (1) (c) of the Karachi Act, that no person shall be qualified to be a trustee who holds any office or place of profit under the Board. Likewise, section 14 (1) (c) of the Bombay Port Trust	

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		Trust Act also makes a similar provision. Section 17 of the Calcutta Act which also contains a similar provision does not apply to the Chairman so that there is no legal difficulty at the Calcutta Port to an officer of the Port Commissioners being appointed to act as Chairman though because there is a Deputy Chairman at Calcutta who is an ex-officio Commissioner, the head of any officer of the Commissioners to be appointed to officiate as Chairman is unlikel to arise. In the case of Madras too there is no fifficulty because there is a proviso under Section 10(1) (d) of the Madras Port Trust Act which permits of any head of Department of the Port Trust holding the office of Chairman and combining it with his own office as the head of a Department of the Port Trust. Provision is, therefore, really required only in the case of the Bombay Port Trust Act to permit of the "promotion" of any head of a Department to the post of a Chairman or to the combining of the post of Chairman with any post of head of a Department as a temporary measure if necessary. It is separately proposed under item No. 9 of Group 2 that the provision regarding the disqualification of trustees prescribed under the Bombay and Madras Acts should not apply to the Chairman or to any other trustee who is an ex-officio trustee by or under the Act. In view of the Madras and Bombay Acts respectively under that item of Group 2, no action is called for in regard to the Bombay Port Trust Act in connection with the present item.	
15 Amendment to Section 21 of the Bombay Port Trust Act.		In section 21 of the Bombay Act which empowers the Board to prepare and sanction a schedule of the staff of officers and servants required to be maintained by the Board, there is a proviso which expressly stipulates that artisans, labourers etc. and persons in temporary employment who receive a monthly salary of Rs. 150 or less, or who are engaged for a definite period of six months or less, shall not be deemed to be officers and Servants for purposes of certain specified clauses of section 22 and of section 23 of the Act. The expression "or who are engaged ...	Amendment to the Bombay Port Trust Act. In section 21, the words "or who are engaged for a definite perio f exceeding six months" occuring in the existing Clause (b) of the Proviso to that sectio shall be deleted.

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		engaged for a definite period exceeding six months" occuring in the existing Clause (b) of the provisio to section 21 has, it is understood, cause difficulty in regard to interpretation in the past. The Government of India see no objection to these words being omitted,	
16.	Question of deletion of the existing proviso to sectio 22 of the Bombay Port Trust Act.	The existing proviso to section 22 of the Bombay Act, which seeks to safeguard the rights of officers and servants of the Board who were appointed originally by Government previous to the passing of the Bombay Port Trust Act of 1873, and whose salaries were paid from the fund known as the Bombay Port Trust Fund and who later continued inservice after the introduction of the Bombay Port Trust Act of 1879, is now out of date and should be omitted.	Amendment to the Bombay Port Trust Act. In section 22 , the existing proviso at the end of the section shall be deleted.
17.	Question of deleting the proviso under section 31(1) of the Calcutta Act.	Under Section 31(1) of the Calcutta Act, there is a proviso which seeks to safeguard the rights of officers andservants of the Commissioners who were originally appointed bt Government previous to the passing of the Calcutta Port Improvement Act of 1870 and who continued ub the service of the Commissioners after the passing of the Calcutta Port Act of 1890. This proviso is also out of date and should likewise be omitted.	Amendment to the Calcutta Act. In section 31, sansection (1), the existing proviso shall be deleted.
18.	Question of celetion of Sections 8 and 25 of the Bombay Act.	Section 25 of the Bombay Port Trust Act seeks to safeguard the interests of officers and servants who held office in 1879. prior to the commencement of the Bombay Port Trust Act, 1879. This section contains a reference to Section8, which relates to the term of office of the first nominee and elective trustees appointed or elected under the Act of 1879. Both these sections are out of date and should be omitted.	Amendment to the Bombay Port Trust Act. (i) Section 8 shall be omitted. (ii) Section 25 shall be omitted.
19.	Question of empowering the Central Govt. to terminate the office of the Deputy Chariman.	Under the Calcutta and the Bombay Acts, there is a provision for the post of a Deputy Chairman but the Madras Act does not provide for such a post, evidently because Madras is comparatively a smaller port and the Chairman's duties there are not so heavy as to require.....	

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		require the post of a Deputy Chairman in addition. Under Section 5 of the Calcutta Act, the Deputy Chairman is an ex-officio Commissioner, but under Section 5 of the Bombay Act the Deputy Chairman is not a trustee. Under both the Acts, the Deputy Chairman is appointed by the Port Commissioners/Port Trust with the approval of Government, vide Section 8 of the Calcutta Act and Section22A of the Bombay Act. Under section 9(2) of the Calcutta Act, the Deputy Chairman continues to hold office till he resigns or the Commissioners, with the approval of the Central Government, cancel his appointment or appoint a successor. Under the Bombay Act, there is no specific provision regarding the termination of the office of the Deputy Chairman. It is considered necessary that the Central Govt. should have power in respect of the Deputy Chairman at Calcutta to ask the Port Commissioners to consider the question of cancellation or termination of his appointment if in future a contingency arises necessitating this course of action. The Central Government have full powers in respect of the cancellation or termination of the Chairman's appointment. There is, therefore, no inconsistency investing the Government with powers to initiate consideration of the question of the termaintion of the Deputy Chairman's appointment. The specific amendment considered necessary in the Calcutta Act is indicated in the next column. It is not considerd necessary for the Central Government to have power to initiate the termination of the Deputy Chairman's appointment at Bombay as the post is in abeyance for a long time and as he is not a trustee.	Amendment to the Calcutta Port Act. In section9 sub-section (2), after the words "with the approval of "the words "or on the requisition of" shall be inserted.
20. Question whether the Depity Chairman at the Bombay Port should be a Trustee.	As discussed under the preceding item, while the Deputy Chairman at Calcutta is an ex-officio Commissioner, the Deputy Chairman at Bombay is not a trustee. The Government of India have considered the question whether the Deputy Chairman at Bombay should be made a trust ee so that he may preside at	

meetings.....

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	meetings in the absence of the Chairman. As the post is now defunct at the Port of Bombay, the Government consider that no action in this respect is really called for. In fact they understand that different Chairmen of the Bombay Port Trust Board have held different view on the question of the desirability of having a Deputy Chairman at the Port and that, if and when the Deputy Chairman's post is revived, it is doubtful whether the appointment of a Secretary on a high grade of pay in addition to the post of Deputy Chairman would ordinarily be necessary. In any case, since the constitution of the Port Trust has been revised only very recently, it is considered unnecessary to undertake a fresh revision of the constitution which would be involved if the Depity Chairman were to be made a trustee at the Port of Bombay. No amendment of the Bombay Port Trust Act is accordingly considered necessary in this respect.	
. Question of amending Section 28A of the Madras Port Trust Act to empower the Board to frame regulations regarding the grant of leave etc. ~~xxxxxxx~~ artisans, portors, labourers, etc.	Under Section 27 of the Madras Port Trust Act, artisans, porters, labourers, etc. are not deemed to be servants of the Board and the power which the Board have to frame regulations under section 28 does not extend to making such regulations in respect of these classes of employees. This disability is, however, partly mitigated by Section 28A which expressly empowers the Board to frame, with the sanction of the Government, regualtions of the nature mentioned in clauses (5) to (7) of Section 28 applicable to artisans, porters, labourers, etc. The Madras Port Trust Board have asked for Section 28A to be amplified so that they may have power to frame regulations, without having to take the sarction of Government to such regulations, in respect of artisans, etc. relating to matters covered by the clauses (1) to (4) of section 28.	4. <u>Amendment to the Madras Port Trust Act.</u> In section 28A, for the words "in clauses (5) to (7) of Section 28", the words "in the various clauses under Section 28" shall be substituted. B. <u>Amendment to the Bombay Port Trust Act.</u> In the proviso to Section 21, the words, "or section 22, clauses (1) to (4), both inclusive, are" shall be omitted. C. <u>Amenment to the Calcutta Port Act.</u>

There..... in.....

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		There is no objection to section 28A being amplified but there is no point in excluding one set of regulations applicable to artisans, etc. from the scope of the Central Government while another set of regulations applicable to the same class of people and framed under the same section requires and will continue to require Government approval. The specific amendment considred necessary is indicated in the next column.	In the proviso to Sub Section, (2) to Section 30, the words "Section 31, except clauses (g) and (h) thereof", shall be omitted
		The provisions under the Calcutta and Bombay Acts regarding the employment of artisans, porters, labourers, etc., and those relating to the framing of regulations applicable to these classes of employees, are generally on the same lines as under the Madras Act. The relevant provisions are contained in clauses (5) to (8) of Section 22 read with Section 21 of the Bombay Act and Sections 30, 30A and 31(1) (g) and (h) read with 31(3) of the Calcuatta Act. With the departmentalisation and decasualisation and of labour at the Ports, the Bombay and Calcutta Port Authorities will doubtless require power to frame regulations applicable to artisans, porters, labourers, etc. relating to grant of leave and other matters covered under clauses (a) to (f) of Section 31 of the Calcutta Act and clauses(1) to (4) of section 22 of the Bombay Act. just as the Madras Port Trust have felt the need for power in this direction. The amendments requird in the Calcutta and the Bombay Acts are also indicated in the next column.	

1813/48

P.W.D.

M.B(Ports).

Submitted.

2. Govt. of India, Ministry of Transport, sent to the Govt. a statment of proposals for amendments group I for comments of the Govt., particularly in regards to applicability of the proposed amendments to the Minor Ports and in the Indian Ports Act. We have, already, communicated concurrence of Govt. to these amendments & the case is under issue.

3. Govt. of India, Ministry of Transport have now sent similar statments of proposed amendments & group II & III for comments. It is seen on a thorough study that all the amendments are proposed to be made in Port Trust Acts only. Ther is no question of amendment s in the Indian Port Acts, to which only we are concerned . No comments are therefore necessary in connection with these two groups no. II & III.

4. If approved the Govt. of India may be informed accordingly.

Id/-
8/12/49.

Put up the draft letter please
through the supdt. M . Branch

Id/-
S.O.

Draft letter is submitted.

Id/-
9/12/49.

Id/-
S.O.

Id/-
D.S.(R.&B)

6'L

P.W.D.,
B.C.(Bombay No.1),
19th December 1949.

No. 1813/48 M(P)

To

The Under Secretary to the Govt. of India,
Ministry of Transport,
New Delhi.

Sub:- Revision of the existing Port and Port Trust Acts.

Sir,

With ref. to your two letters bearing No. 2-P(5)/49 dated the 30th November 1949, I am directed to inform you that the Govt. has no comments to offer for the amendments proposed in groups no. 2 & 3 as these relate to Port Trust Acts only.

D.A.Nil.

Yours faithfully

Id/-

TRANSIPORT.

GOVERNMENT OF INDIA
MINISTRY OF TRANSPORT

No.2-P(7)/49
Dated, New Delhi, the 9th Dec., 1949

From

S.K.Ghosh, Esquire,
Under Secretary to the Governement of India.

To

The Secretary to he Government of Bombay,
Public Works Department,
Bombay.

Subject:- Revision of the existion Port and Port Trust Acts.

Sir,

In continuation of this Ministry's letter No.2-P(1)/49, dated the 26th November 1949, I am directed to forward herewith for comments, if any, a further statment (Group 5) relatin to the proposals for amendments to the existing Port Trust Acts in respect of the investing and borrowing powrs of the Board of Trustees.

Yours faithfully,

Sd/-S.K.Ghosh

Under Secretary to the Govt. of India.

Encl. Statement.

MANCHANDA 8/12.

Statement showing the various proposals requiring amendments to the Calcutta Port Act, 1890, the Bombay Port Trust Act, 1879, and the Madras Port Trust Act, 1905, relating to the investing and borrowing powers of the Port Trust Board. -(GROUP 5)

Item No.	Description of the item.	Tentative decsions of the Govt. of India.	Proposed amendments to the various acts.
1	2	3	4
1.	Question of amending the various Port and Port Trust Acts to enable the Major Port Authorities to make investments in the loans of the provincial Governments.	The relevant sections of the Port and Port Trust Acts relating to the powers of investment vesting in the Port Authorities are sections 24(3) and 24B(2) of the Calcutta Act, 41A(2), 51 and 60A of the Bombay Act and 70(1) and 74A (2) of the Madras Act. Under these, the Calcutta Port Commissioners have the power to invest their sinking and reserve funds in "promisory notes and other securities of the Government of India or in the debentures issued by the Commissioners" themselves. Similarly, the Bombay Port Trust havepower to invest their sinking funds, the balances in their general and pilotage accounts and their surplus f unds in "public securities" as drfined in sec. 3(12) of their Act (This definitiondoes not cover Provincial Government securities) and in such other" secutities as the Central Government may approve". Similarly, the Madras Port Trust can invest their sinking andresetve funds in securities of the Government of India or in Port Trust securities". This none of these Port Authorities have power to invest their funds in the Provincial Government securities but, in 1939, the Government of India allowed the Bombay Port Trust by executive order under sections 41A(2) and 60A of the Bombay Act to make investments in Provincial Government securities. All the authorities are unabimously of the view that necessary provision should be made in their Acts to enable them to invest their funds in Provincial Government securities. In addition, the Calcutta Port Commissioners want power to invest their funds in debentures issued by other Ma or Port Trusts, Municipal Corporations and the Bombay and Calcutta Imporovement Trusts. The Bombay Port Trust also want similar additional power to make.....	A. Amendment to the Bombay Port Trust Act, 1879. (1) For clause(12) of section 3, the following clause shall be substituted:- (12) the words' public securites' (a) promissory notes, debentures, stock or other securities of the Central or any provincial Government; (b) debentures or other securities for money issued by or on befalf of any Municipal body, Improvement Trust or any Port Trust under the authority of any Act of a Legislature established in India including the Trustees of the Port of Bombay acting under this Act". (2) In section 51, after the words" public sercurites" wherever theyoccur, the words," as defined in section 3(12) or any such other securities as the Central Government may approve", shall be inserted.

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		to make investments in the loans of Imporvements Trusts and the Madras Port Trust have asked for general authorisation to invest in securities authorised by Section18 of the Indian Trust Act, 1882, or in loans raised by the Board themselves under the Madras Port Trust Act. As the Provincial Government loans are practically as secure as the Central Government laons, the Government of India do not have any objection to the Port authorities being allowed to make investments in the former, just as they are now able to do in the latter. Again, since a Port Trust can even now invest in their own securities, there can be no objection to a Port Trus making investments in the securities of a sister Port Trust. Further, since the definition of "public securities" as given in section 3(12) of the Bombay Port Trust Act already covers, among others, debentures etc. issued by the Municipalities, PortTrusts and the Bombay Improvement Trust, theGovernment of India see no objection to allowing the Port Authorities to invest in securities issued by or on behalf of a Municipal Body, Improvement Trust or any Port Trust under the authoritiy of any Act of a Legislature established in India . They, however, do not favour the idea of going as far as section 18 of the Indian Trust Act which allows the investments being made even on mortageges. The amendments called for are indicated in the next column.	B. Amendment to the Calcutta Port Act. (1) In section 3, the following new clause shall be added as clause(8A):- "(8A).'public securites' shall mean - (a) promisory notes, debentures, stock or other securities of the Central or any Provincial Government. (b) debentures or other securities for money issued by or onbehalf of anyMunicipal body, Improvement Trust or any Port Trust under the authority of any Act of a Legislature established in India including the Commissioners for the Port of Calcutta acting under this Act." (2).....

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			(2) In section 24, sub-section(3), for the words" in the promisory notes and other securities of the Government of India or in debentures issued by theCommssioners under this Act", the words, "in public securities as defined in section 3(8A) or in such other securities as the Central Government may approve in this behalf", shall be substituted.
			(3) Insub-section (2) of section24B, for the words," in the promssory notes and other securities of the Government of India or in the debentures issued by the Commissioners under this Act", the words, "in Public sercutites as defined in section 3(8A) or in such other securities as the Central Government may approve in this behalf, " may be substituted.
			C. Amendment to the Madras Port Trust Act, 1905.
			(1) In section 5, the following new clause shall be inserted as clause (11A):-
			"(11A).'Public securities' shall mean:-
			(a) promissory notes, debentures, stock or other securities of the Central or any Provincial Government;
			(b) debentrues or other securities for money issued by or on behalf of any Municipal body, Improvement Trust or any Port Trust under the authority of any Act of a Legislature established in India including the Trustess of the Madras acting under this Act.".

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			(2) In section 70, sub-section (1) for the words, "in securities of the Government of India or in the port trust securities" the words" inPublic securities as defined in section 5(11A) or in such other securities as the Central Government may approve in this behalf" shall be substitubdd. (3) In section 74A, sub-section (2), for the words" in thesecurities of the Government of India or in Port Trust securities", the words, "in public securities as drfined in section 5(11A) or in such other securities as the Central Government may approve in this behalf", shall be substituted.
2. Proposed amendment of thePort Trust and Port Acts to afford the trustees the same protection as is available to Government under section18 of the Indian Secubities Act, 1920.		Under Section 19, 22 and 25 of the Calcutta Port Act, the Port Commissioners are empowered to borrow money by way of debentures or by way of loan from the Central Government. Similarly, under sections 30 and 39 of theBombay Port Trust Act, the Port Trust Board are empowered to issue securities and to raise money either by way of debenture or by way of borrowing from the Central of the Provincial Government, ans similar powers of borrowing are also available tothe Madras Act. The liability of the Port Trust Boards under the existing Acts in respect of the principal sums due on debentures or other securities issued by them extends at present to an indefinite period. The Bombay Port Trust therefore desire that necessary amendment should be made to their Act to give them the same protection as is available to.....	A.<u>Amendment to the Bombay Port Trust Act.</u> The following new section shall be inserted as section 24F:- "42F. The provisions of Sections 4, 5, 8 9,10,15 and 18 of the India Securities Act 1920 No. X of 1920), shall, mutati <u>mutandis,</u> apply to all securities issued by the Board". B.<u>Amendment to the Madras Port Trust Act.</u> In section 64A, for the figures and word" 10 and 15", the figures and word "10, 15 and 18" shall be substituted.

C .....

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		to Government under section 18 of the Indian Securities Act, 1920, which limits such liability to a definite period of 6 years. The other Major Port Authorities also want a similar amendment to their Act. The Government of India see no objection to suitable amendments being mad e in the Port Trust Acts in this respect, particualrly in view of the fact that simiiar protection is available to the Bombay Municipality, vide section110AD of the City of Bombay Municipality Act, 1888. They, however, feel that instead of emobodying the provisions of section 18 of the India Securites Act in the Port and Port-Trust Acts, it will be better to insert in those Acts a sectionon hhe lines of section 64A of the Madras Port Trust Act embodying a direct reference not only to section 18 but also to the various other sections of the Indian Securities Act mentioned in section 64A of the Madras Act. The specific amendments considered necessary are indicated in the next column. In this connection, it is noti d that unlike the sections 42E of the Bombay Port Trust Act and 64B of the Madras Port Trust Act, there is no provisionin the Calcutta Port Act for the framing of rules ~~xfx~~for regulating the issue of duplicate debentures, of~~x~~ for renewal, consolidation, etc., of debentnnes~~x~~ As a measure of uniformity, it is proposed to insert a new sectionin the Calcutta Port Act. as indicated in the next column.	C.Amendments to the Calcutta Port Act. (i) The following new section shall be inserted as section 27A:- "27A. The provisions of sections 4,5,8,9,10,15 and 18 of the Indian Securities Act, 1920(Act X of 1920), shall mutatis mutandis, apply to all debentures issued by the Commissioners". (ii) The following new section shall be added as section 27B:- "27B. (1) The Commissioners in meeting may from time to time make rules to provide for all or any of the following matters, viz.- (a) the person, if any, authorised to sign the mode of affixing the corporate seal and of attestationof documents relating to the debentures issued by the Commissioners; (b) themanner in which payment of interest in respect of the debentures issued by the Commissioners is to be made and acknowledged; (c) the circumstances and the manner in which such debentures may be renewed; (d)....

* & for regulating other ancillary matters

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			(d) the circumstances in which such debentures must be renewed before further payment of interest thereon can be claimed; (e) the form in which debentrues deleivered for renewal and conversion are to be receipted; (f) the proof which is to be produced by persons applying for duplicate debentures; (g) the form and manner of publication of the notification mentioned in sub-section(2) of section 10 of the Indian Securities Act, 1920, as applied to the debentures issued by the Port Commissioners and the manner of publication of the list mentioned in sub-section(3) of that section. (h) the nature andamount of the indemnity to be given by a person applying for the payment of interest on debentures alleged to have been wholly or partly lost or destroyed or for the issue of duplicate debentures; (i) the conditions subject to which such debentrues may be converted; (j) generally, all matters connected with the grant of duplicate, renewed and converted debentures, and (k) thefees to be le vied in respect of th issue of duplicate debentures and of t renewal and conversion of the debentur es issued by the Commissioners. (2).....

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			(2) The Commissioners inmeeting may from time to time repeal, alter or add to any rule made under this section. (3) No rule, repeal or alteration of a rule shall have effect until the same shall have been approved by the Central Government and such approval shall have been published in the official gazette. (4) No rule and no repeal or alteration of or addition to any rule shall be approved by the Central Government until the same shall have been published in three consexcutive issues of the official gazette."
Proposed amendment of the Calcutta Port Act relating to the period of limitation applicable to a claim for thepayment of a debenture after it has matured.	The Calcutta Port Commissioners suggested in 1938 that a clear provision should be made in their Act as to the period of limitation applicable to a claim for the payment of a debenture after it had matured. This suggestion was made in the context of a legal ruling to the effect that the Trustees of the sinking fund (who are different from the Board of Port Commissioners, vode sectopm 24(3) of the Calcutta Act) would not be legally within their rights if they allowed the payment to the Port Commissioners of anymoney in the sinking fund representing the amount due on debentures, payment for which had remained unclaimed for more than 12 years afte rematurity. This legal ruling was based on section 24 of the Calcutta Act, (particularly the words" until the whole of the money borrowed or discharged" occuring insub-section (2) of section 24) read with section 10 of the Indian Limitation Act.	A.<u>Amendment to the Calcutta Port Act.</u> In section 24, sub-section(2), after the words,"until the whose of the moneys borrowed or dischraged" the following words shall be inserted:- "or until the expiry of theperiod of limitationprescribed by the Indian Limitation Act (Act IX of 1908) in respect of claims for the payment of the debentures or securities for the li quidationof which the funds has been established, whichever is earlier".

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		Neither the Bombay Port Trust nor the Madras Port Trust are in favour of any amendment being made in their Acts in this respect. The attitude of the Bombay Port Trust is understandable, for, in their case, the legal position is slightly different from that at C; ~~th~~Culacutta as, under section 41A of the Bombay Act, the Port Trust Board are themselves the trustees of their sinking fund. The position of Madras, is, however, exactly similar to that of Calcutta in this respect, vide section70(1) of the Madras Port Trust Act under which the sinking fund Trustees are different from the Trustees of the Port Trust Board. It is not, therefore, understood why the Madras Port Trust do not favour an amendment on the lines asked for by the Calcutta port Commissioners. The Government of India feel that the existing legal position is unsatisfactory in this respect and should be remedied so as to bar, by limitation at theend of the periof prescribed under the Indian Limitations Act any claim against the trustees of the sinking fund in respect of any debentures which remain undischarged after maturity even though no practical difficulty is being expenienced at any of the ports.(At Calcutta where difficulty was experienced, the problem has been met by the Commissioners adopting a suggestion made by the Government Solicitor to the effect that the payment of the unclaimed balances in the sinking fund could be made by the trustees of that fund to the Port Commissioners on the latter giving the former a suitable indemnity bond to protect them against any claim which could, in view of section 10 of the Indian Limitation Act, be preferred against them without any limit of time.) The specific amendment considered necessary in the Calcutta Act is indicated in the next column. For the sake of uniformity, similar amendments have also been	B,. Amendment to the Bombay Port Trust Act. In section 41A, sub-section(2), for the words, "until the whole of the moneys borrowed or discharged" the following words shall be inserted:- " or until the expiry of the period of limitationprescribed by the Indian Limitation Act (Act IX of 1908) in respect of claims for the payment of the debentrues or securitikes for the liquidation of which the fund has been established, whichever is earlier". / Note-It is proposed, under item 11, to amplify section41A to provide for a separate body of trustees for the sinking fund on the lines of the provision existing in the Calcutta and the Madras Acts./ C. Amendment to the Madras Port Act. In section 70, sub-section(2) for the words, "until the whole of the moneys borrowed or discharged", the following words shall be inserted:- "or until the expiry of the period of limitationprescribed by the Indian Limitations Act(Act IXof 1908) in respect of claims for the payment of the sedurities for the liquidation of which the fund has been established, whichever is earlier".

suggested....

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		suggested to the Madras and Bombay Acts also. (This item is still under consideration in consultation with the Law Ministry).	
4	Proposed amendment of the Madras Port Trust Act to enable the Port Trust Board to set apart the whole or any part of the loans floated by them for the investment of their sinking and reserve Funds.	As stated under item 1 of this Group, the Madras Port Trust are even now empowered under sections 70(1) and 74A(2) of their Act to invest the money in their sinking and reserve funds in their own securities. Unlike the Calcutta and Bombay Port authorities, however, the Madras Port Trust have now no power to reserve for their own investments the whole or any part of the loans which may be floted by them. The Madras Port Trust have asked for an amendment of their Act to give them the necessary power in this respect. The question was gone into by the Government of India very carefully in 1938-39 and it was really at their instance that the Madras Port Trust have asked for an amendment to their Act in this respect. Since similar powers are already available to Calcutta Port Commissioners and to the Bombay Port Trust, vide section 24C of the Calcutta Act and section 51A of the Bombay Act, there can be no objection to similar provision being included in the Madras Port Trust Act also. The new section to be added to the Madras Act is indicated in the next column. In the interest of uniformity, a new sub-section is proposed to be added to section 2 4C of the Calcutta Port Act on the lines of sub-section(4) of section 51A of the Bombay Act, as shown in the next column. A slight amendment to sub-section (3) of section 51A is also called for in view of the amplification proposed to be made in section 41A(2) under item No. 11(ii) of this Group, and is indicated in the next column.	<u>A. Amendment to the Madras Port Trust Act.</u> After section 74A, the following new section shall be inserted as section 74B:- "74B.(1). For the purposes of any investment which the Board are authorised to make by this Act it shall be lawful for the Board to reserve and set apart any securities to be issued by them on account of any loand to which the consent of the Central Government has been given provided that the intention to so reserve and set apart such securities shall have been notified as a condition to the issue of the loan. (2). The issue of any such sercurities direct to and in the name of "The Trustees of the Port of Madras" shall not operate to extinguish or cancel such securities, but every security so issued shall be valid in all respects as if issued to, and in the name of, any other person. (3). The purchase by the Board, or the transfer, assisgnment or endorsement to the Trustees of the Sinking Fund or the Board of any security issued by the Board, shall not operate to extinguish or cancel any such security, but the same shall be valid and negotiable in the same maner and to the same extent as if held by, or transferred, assigned person.

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(4) All securities of the Board heretofore purchased by, is ued, transferred or assigned to, or endorsed in the names of the Trustees o of the Port of Madras, or any personon their behalf, andall securities heretofore issued by way of renewal, consolidationor sub-division of any such sercurities, shall be and shall be deemed to have always been valid and negotiable in all respects and in the same manner and to the same extent as if held by, or issued, transferred, assigned or endorsed to any other person."

B. Amendment to the Calcutta Port Act.

At the end of section24C, the following new sub section shall be added as sub-section(4):-

"(4). All debentures or securities of the Commissioners heretofore purchased by, issued transferred, or assigned to or endorsed in the names of the Commissioners for the Port of Calcutta or any person on their behalf , and all debentures and securities heretofore issued by way of renewal, consolidation or sub-division of any such debentures or secyrutues shall be and shall be deemed to have always been valied and negotiable in all respects and in the same maanner and to the same extent as if held by, or issued,transferred, assigned or endorse to any other person."

C. Amendment to the Bombay Port Trust Act.

In section51A , sub-section(3),

(a) after the words" purchase by" the words "the Board" shall be added, and

(b) after the words "endorsement to" the words "the Trustees of the sinking fund or"

shall...

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5. Question of limiting by statute the extent to which theP rt to which the P$_o$rt Authorities should be allowed to invest their sinking fund balances and other monpys in their own debentures or securities.	The questionwas first raided in 1938. whether it was desirable tofix any statutory limit to the extent upto which the Port Authorities should be allowed to invest the moneys in their sinking funds and other funds in their own securities. It transpired that certain Major Ports had made substantial investments of their sinking fund moneys in their domestic securities and, although this was permissible under their Acts, some dount was felt on the wisdom of allowing suchinvestments being made on a large scale

shall be added.

Since the sinking funds are intended eventually toliquidate laons raised by the Port Authorities, it is agreedthat there can be no objection to such funds holding as much of the securitites, which they are designed to liquidate at the end of a specified period, as their own resources would permit at a given time. The position in regard to the investment of the reserve funds and the cash balances is however not the same as that of the sinking funds, for, the cash balances and the reserve fund balances may aonceivably be required at a short notice and, if they are all locked up in long-term securities issued by the Port Authorities themselves, it maynot be possible readily to encash them. Nevertheless theGovernment of India feel that it is not essential for any statutory restriction to be imposed on the Port Authorities either in the matter of Sinking Fund investments or in the matter of investments of other balances. The Government of India, however, think that a convention should be set up under which thePort Authorities should invest (a) not more than 50 percent of their balances in the sinking and other funds or accounts in their own securities and (b) the remainder of the balance in the sinking funds insuchother investments as would yield sufficient returnto cover the amounts of the various lonas on maturity. It is

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6.	Question of amending the Port and Port Trust Acts so as to introduce uniformity in the method of valuation of the securities in the sinking funds and in the method of adjustments of the half yearly contributions to the sinking funds.	Under section 24(1) of the Calcutta Port Act, the Commissioners are required to make half-year contributions to their sinking fund in respect of each loan contaracted by them by way of debntures of suchamounts as will liquidate such loan within a period not exceeding 60 years which the Central Government may prescribe in each case. There is no specific provision in the Act for determining what the half-yearly contribtuions to the sinking fund should be. It was, thereofre, not an usual occurrence in the past for the annual examinationof the sinking fund by the A.G., Bengal, prescribed under the section 24A(1) of the Act, to reveal either a deficiency or an excess. Accordingly, since 1937, the Calcutta Port Commissioners have been allowed to follow a special method of calculating the half-yearly contributions which hs the merit of giving a more even distributionof the burden followed in this respect. Under the Calcutta and the Madras Acts, the current values" of the ivestments have to be taken into account inconnection with the annual examination of the sinking funds whereas the Bombay Act provides fir the "value" only of the ivestments of the sinking fund money to be taken into account in connection with the annual examination of that fund. The Bombay provision has been interpreted as permitting the valuation of the Port Trust debentures or securities held in the sinking fund at par on the gound that such securities will never have to be sold before maturity and, therefore, their value af for the purposes of the sinking fund is really at par. The....	A. <u>Amendment to the Bombay Port Trust Act.</u> In the existing section 41B, for the word, "value", the words, "current value" shall be substituted. B. <u>Amendment to the Madras Port Trust Act.</u> In the existing section 71, after the word "deficent", the following words shall be inserted:- ", unless the Central Government specially sanctions a gradula readjustment."

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		The Auditor-General of India prefers the valuation of such securities held in the sinking funds to be made invariably at the market rate, vide article 102 of the Audit Code, and the Government of India agree with him in this matter. As the expression "current value" used in section 24A of the Calcutta Act, and in section 71 of the Madras Act, referes to the current market rate, no amendment to these sections is called for. A so that there also it is the "current value", i.e. the current market rate, that may be taken into account inconnection with the annual valuation of the securities held in the sinking fund. Under both the Bombay and the Calcutta Acts, vide section 41B and 24A(1) of the two Acts respectively, provision exists empowering the Government of India to sanction the gradula readjustment of the amounts, if any, by which the sinking to fund may prove to be drficient after the annual examination of the funds prescribed under the Acts has been carried out. There is, however, no such provision under the Madras Port Trust Act. and the Madras Port Trust Board have requested that provision should now be made in this respect. This is unobjectionable not only as a measure of uniformity but also otherwise on merits. The amendments called for in the Bombay and the Madras Acts are indicated in the next column.	
Amendment of the port Trust and Port Acts to enable the Port Authorities to		In 1937, it came to the notice of the Government of India that the Calcutta Port Commissioners had been taking temporary loans from the New Howrah Bridge Commissioners and repaying the same with interest at current banking rates for overdrafts. The Advicate General of India, to whom a reference was made on the question....	A. Amendment to the Bombay Port Trust Act. The following new section shall be inserted as section 42: "42G. Notwithstanding anything contained in this Act, it shall be lawful for the Board to.....

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obtain temporary lonas by pledging their holdings of securities or by over-drawing from banks on the security of their fixed deposits or other assets.	question whether the Commissioners had the power to obtain such temporary loans either by pledging the securites held by them with the londers or without doing so, expressed the opinion that an over-draft on the bank account was a loan and that the Port Trusts, who were not a trading or commercial corporation, had no implied power to borrow. Their borrowing powers were expressly defined and limited by statute and no power not expresslys give could be exercised by them, and that the contitions and restrictions for the exercise of express powers must bestrictly observed. Inother words, according to the ruling given by the Advocate General, the Port Commissioners do not have the power to borrow on the security of their investment by over -drafts on banks or otherwise unless the money is raised in a-ny of the maaners prescribed or authorised by the relevant Port Act or the Local Authorities Loans Act. For the purposes of day-to-day working, the Port Authorities do require temporary loans or over-drafts as they cannot possibly keep a large amount of liquid cash to meet all contingencies and they all have asked for their Acts to be amended to give them the requisite powers for obtaining such temporary accommodation by way of loans and over-drafts whenever necessary. Under the Local Authorities Loans Act, the Port Authorities are empowered to raise temporary loans with the sanction of the Central Government but the Port Authorities evidently do not wish to take advantage of this section as, in practice, it must be inconvenient for them to obtain Government sanction each time they require a temporary loan. The Government of India admit that the ways and menas position of the Port Authorities may compel them	to borrow money by means of temporary over-draft or otherwise by pledging the securities or debentures held by them in their reserve funds or on the security of their fixed deposit in their Banks; provided that such temporary loans or over-drafts shall not at any time have a longer currency than six months and shall not be taken without the prior sanction of the Central Government if in any case the amount of loan or over-draft is rupees two lakhs or more, and provided further that the moneys so raised are required to be expended for the purposes of the this Act." B. Amendment to the Calcutta Port Act. The following new section shall be added as section 27C: "27C. Notwithstanding anything contained in this Act, it shall be lawful for the Commissioners to borrow money by means of temporary over-draft or otherwise by pledging the securities or debentures held by them in their reserve funds or on the security of their fixed deposits in their Banks: provided that such temporary lonas or over-drafts shall not at any time have a longer currency

off....

than.....

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		off and on to seek temporary loans and over-drafts from banks or other sources. The have, therefore, no objection to a suitable amendment being made in the Port Trust ACts. They, however, feel that the Port Authorities should ob tain their prioris sanction before obtaining a temporary loan of Rs. 2 lakhs or more. The specific amendments called for is indicated in the next column.	than six months and shall not be taken without the prior sanction of the Central Government if in any case the aount of loan or over-draft is rupees two lakhs or more, and provided further that the moneys so raised are required to be expended for the purposes of this Act". C. Amendment to the Madras Port Trust Act. The following new section shall be inserted as section 73A:- "73A. Notwithstanding anything contained in this Act, it shall be lawful for the Board to borrow money by menas of temporary over-draft or otherwise by pledging the securities or debentures held by them in their reserve funds or on the security of their fixed deposits in their Banks: provided that such temporary loans or over-drafts shall not at any time have a longer currency than six months and shall not the taken without the prior sanction of the Central Government if inany case the amount of loan or over-draft is rupees two lakhs or more, and provided further that themoneys so raised are required to be expended for the purposes of this Act".
	Section		Amendment.....

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8	Question of the deletion of sect on 73 of the Madras Port Trust Act as a measure of uniformity.	Section 73 of the Madras Port Trust Act states that nothing in that Act shall bedeemed to affect the powers of the Board to raise loans under the Local Authorities Loans Act, 1914. There is no corresponding section either in the Calcutta Act or the Bombay Act, although both Calcutta and Bombay are entitled, in the same way as Madras, to riase loans under the Local Authorities Loans Act. It is felt that if section 73 is omitted from the Madras Act as indicated in the next column, it will not produce any lacuma in the Act. The matter is under further consideration in consultation with the Law Ministry.		<u>Amendment to the Madras Port Trust Act.</u> Section 73 shall be omitted.
9	Question of making a provision in the Bombay Port Trust Act to empower the Board to repay Government loans before the due date of maturity.	Section 68 of the Madras Act and section 27 of the Calcutta Act containspecific provisions empowering the Port Authority to repay Government loans before the due date of maturity. There is, however, no corresponding provision in the Bombay Act. The Government of India agree that, in the interest of uniformity, a new sectionshould be added in the Bombay Act on the lines of section 27 of the Calcutta Act to empower the Board to repay any amount due to Government before maturity if the Board so wish. Section 68 of the Madras Act should, it is thought, also be ampligied slightly so as to bring it into line with the wording of section 27 of the Calcutta Act. The specific amendments to the Bombay and the Madras Act are indicated in the next column.	A	<u>Amendment to the Bombay Port Trust Act.</u> The following new section shall be added as section 41D:- "41D. The Board may apply any sums, out of moneys which may come into their hands under the provisions of this Act and which can be so applied without prejudicing the security of theother debenture-holders, in repaying to the CentralGovernmet any sum whichmay remaindue to them inrespect of the principal of any loan, although the time fixed for the repayment of the same

Section.....

may....

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10. Question			may not have arrived; Provided that no such repayment shall be made of any sum less than ten thousand ruppes, and that, if such repayment is made, the amount of interest ineach succeeding instalment shall be adjusted so as to repay the exact sum of the interest due on the outstandingprincipal." B. Amendmendment to the Madras Port Trust Act. In section 68, after the words, "the Board may apply any sums", the words "out of moneys which may come inti their hands under the provisions of this Act" shall be inserted.
10 Questionof inserting a provisionin the Bombay Port Trust Act requiring loans to be reised by the Board in India and in Indian currency.	Section 65 of the Madras Prt Trust Act and section23 of theCalcutta Port Act containexpress provisionsrequiriring that loans contracted by the Port Authority be raised in India and in Indian currency unless otherwise directed by the Central Government by notification. A similar provision does not exist in the Bombay Act and, in the interest of uniformity, the sectionindicated in the next column should,it is felt, be added in that Act.		Amendment to the Bombay Port Trust Act. The following new section shall be inserted as section41E:- "41E. All loans contracted by the Board shall be raisedin India, and in Indian currency, unless the Central Government shall, by notificationinthe official Gazette, otherwise direct."

Under ///.

Amendment....

11 Question of amending the Port Trust and Port Acts to provide for a uniform practice relating to the method of contribution to the sinking funds.

Under items 1 and 6 of this Group, certain amendments have already been indicated which are designed to bring about a measure of uniformity in the provisions under the three Port and Port Trust Acts in regard to the maintenance of the sinking fund. Certain further provisions which are not as yet uniform are dealt with below:-

(i) Adjustment of surpluses, if any, in the sinking fund which the annual examination of the funds by the Accountant-General may reveal:

Under sub-section (2) of section 24A of the Calcutta Act, the Port Commissioners have power to adjust, with the previous sanction of the Central Government, such surpluses either by withdrawal in a lump or gradually or by suspension or reduction of the half-yearly contributions or by combination of any of these methods. There is, however, no such provision either in the Bombay Act or in the Madras Act. The Government of India feel that opportunity should be taken to have such a provision included in these Acts. The specific provisions proposed to be inserted in the two Acts are indicated in the next Column.

AQ. Amendment to the Bombay Port Trust Act.

The existing section 41B may be numbered as sub-section (1) of that section and the following new sub-section may be inserted as sub-section (2):-

"(2). If the cash and the crrent value of the securities at the credit of the sinking fund are in sinking fund are in excess of the amount which should be at its credit, the Accountant General shall certify the amount of this excess, and the Board may, with the previous sanction of the Central Government, -

(a).....

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			(a) withdraw the whole or a y part of the cetificated excess in which case the trustees in whose names the sinking fund is invested under sub-section (2) of section 41A shall forthwith transfer securities of the requisite current value, or cahs and securities of the requisite current value, to the Board, or · (b) reduce or discontinue the half yearly contributions to the sinking fund prescribed by sub-section (1) of section 41A; or (c) adopt a combinationof these menasures."
			B. Amendment to the Madras Port Act. Section 71 of the Madras Port Trust Act. may be numbered as sub-section (1) of that section and the following new sub-section may be added as sub-section(2):-
			B. Amendment to the Madras Port Trust Act. Section71 of the Madras Port Trust Act maybe numbered as sub-section(1) of that section/and/the/following new sub-section may be added as sub-sectio "(2). If the cash an d the current value of the securities at the credit of the sinking fund are in excess of the amount which should be at its credit, the Accoutant Genral shall certify the amount of this excess, and the Board may, with the previous sanctionof the Central Government, - (a)....

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			(a) wthdraw the whole or any part of the certified excessin which case the trustees in whose names the snking fund isinvested under sub-section (1) of section 70 shall forthwith transfer securities ofthe requisite current value, or cash and securities of the rquis te current value, to the Beard; or (b) reduceor discontinue thehalfyearly cntributions to the sinking fund prescribed by section 69, or (c) adopt a cembinatien of the se measures."
	(ii) Constitution of a separate body of Trustees for the sinking fund of the Bombay Port Trust: Under section 24(3) of the Calcutta Port Act and section 70(1) of the Madras Port Trust Act, the Trustees of the sinking funds at the two Ports are not the same asthe Port Authority, but under section 41A(2) of the Bombay Port Trust Act, the Bombay Port Trust Beard themselveshad their sinking fund in trust. The Government of India feel that Bombay sould in thismatter fall in line with Calcutta and Madras, not only in the interests of unifermity but also because, on merits.....		Amendment to the Bombay Port Trust Act. In section 41A, sub-section (2), the werds " by the Beard" occurring atthe end, shall be substituted by the wrds, " by two trustees, one being the beard andthe other a persen appointed by the Central Gevernment".

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		merits, thevesting of the money in the sinking fund in a body of trustees diff rent from the Port Trust Board is desirable asit is likely to inspire greater public confidence in the Port Trust debentures and securities.	
		The specific amendment to the Bombay Port Trust Act is indicatedin the next column	

1813/48

P.W.D.

M.B.(parts)

submitted, with refece to the office not dated 8-12-49.

2. Govt. of India, Ministry of Transport, have further sent statments of proposed amendments Goruop V for comments. The amendments relate to Part Trust Acts. only and hence no comments are to be offered in thes respect.

3. If approved, the Govt. of India may be informed accordingly. The draft letter is put up for approval.

Id/-

PKM
19/12/49.

Id/-
21/12

D.S.(R&B)

P.W.D.

B.C.(Bombay No. 1),
22nd Decmber 1949.

No. 1813/48 M(P)

To

The Under Secretary to the Govt. of India
Ministy of Transport,
New Delhi.

Sub:- Revision of the existing Part and Part Trust Acts.

Sir,

With reference to your letter No. 2--P (7)/49, dated the 9th December 1949, I am directed to inform you that this Government has no comments to offer for the amendments proposed in group 5, these relate to Part Trust Acts only.

Yours faithfully,

D.A. Nil.

D.P.K.—(J) H/11—1,50,000—10-54.
S. R. & M. L. G. D., No. 2520/53, dated 30-12-10.]

Sheet 20 fig 53 c.

SEPARATOR

Telegrams:-

"TRANSPORT"

Government of India
Ministry of Transport.
.....

No.2-P(1)/49

New Delhi, the 26th Novemberr 1949

From

S.K. Ghosh, Esqur.,
Under Secretary to the Government of India,

To

The Secretary to the Government of Bombay,
Public Works Department, Bombay.

The Secretary to the Government of Madras,
Public Works Department, Madras.

The Secretary to the Government of Orissa,
Labour & Commerce Department, Cuttack.

Subject:- Revision of the existing Port and Port Trust Acts.

.....

Sir,

I am directed to enclose a copy of a letter No. 2-P (1)/49 dated the 26th November 1948, addressed to the Maj Port Authorities, together with a copy of the statement referred to therein, and to say that copies of the further statements will also be forwarded to the Provincial Govern ment when they are sent to the Port Authorities. I am to request that the comments of the Provincial Government, if any, on the proposed amendments, especially those relating to the Indian Ports Act, 1908, may kindly be communicated to this Ministry as early as possible but not later than the 15th December 1949.

2. In this connextion I am to say that as the Provincial Government are doubtless aware, the subject 'Ports subject to the provisions in List I with respect to Major Ports' will be concurrent subject in the New Constitution, so that the Central Legislature will soon be competent to legislate not only in regard to major ports, but also what are now known as minor ports. I am, therefore, to enquire whether the Provincial Government have any objection to the proposed amendments to the Indian Ports Act being made

applicbale...

applicable to Ports other than Major Ports so that the Government of India may decide whether promote the necessary amending Legislation in the Central Legislature in respect of Major Ports only or in respet of all ports.

Yours faithfully,

Sd/- S.K.Ghosh

Under Secretary to the Government of India.

D.A.Refd."SAX"

Telgrams:-
"TRANSPORT"

Government of India
MINISTRY OF TRANSPORT.

.....

No.2-P(1)/49.
New Delhi, the 26th November 1949.

From

S.K.Ghosh, Esqr.,
Under Secretary to the Government of India

To

The Chairman of the Commissioners for the
Port of Calcutta, Calcutta.

The Chairman,
Bombay Port Trust, Bombay.

The Chairman,
Madras Port Trust, Madras.

Sub:Revision of the existing Port and Port
Trusts Acts.

.....

Sir,

I am directed to invite a reference to the correspondence resting with your letter No.6460/3, dated the 19th May 1947, No.A/GA-PT/3343, dt. 11th May 1949, No.G.5520, dated the 24th Dec. 1946, on the question of the revision of the existing Port and Port Trusts Acts. The various proposals for amendments to these Acts, which have from time to time been made to the Government of India by different authorities and on most of which the views of th Port Commissioners/Port Trust Board have already been obtained, have now been departmentally examined in the Ministry of Transport under suitable group headings, and tentative conclusions reached. These conclusions have not yet been finalised because the views of certain Ministries of the Government of India who are concerned are still awaited on some of these proposals. Also, it is considered essential, in view of the far reaching nature of some of the proposed amendments and the fact that certain fresh items have been included on which the Port Commissioners/Port Trust Board have not so far been consulted, that an opportunity should be given to the Commissioners/Board to offer their comments on these tentative conclusions before the Government of India finalise the form of amendments

before

before the Government of India finalise the form of amendments on the basis of which Amending Legislation should be promoted.

2. The various groups in which the amendment proposals have been considered are indicated belwo. These are, as will be readily reconginsed, rather rough and ready dicisions into sizeable units of the very large number of items requiring considerations and were adopted merely for facility of examination.

Group 1: Amendments to the Indian Ports Act, 1908, and consequential amendments to the other Port and Port Trusts Acts;

Group 2: Amendments relating to the constitution, functioning, etc., of the Board of Trustees;

Group 3: Amendments relating to the appointments and service conditions etc., of the Chairman and the officers & services of the Port Trust

Group 4: Amendments relating to the powers of the Chairman and of the Port Trust;

Group 5: Amendments relating to the Investing and Boarowing powers of the Board of Trustees;

Group 6: Amendments relating to Revenue, Expenditure and Accounts of the Port Trust;

Group7: Amendments relating to miscellaneous matters.

3. I am to enclose herewith a statement showing the proposals and the tenatiative conclusions of the Ministry in respect of the first group of amendments. Similar statements relating to other groups will follow in a few days' time.

4. I am to request that brief comments of the Port Commissioners/Port Trust Board on the amendments now proposed may kindly be communicated to this Minitry as early as possible but not later than the 15th December 1949. On the part of this...

this Ministry, every effort willbe amde to send out the st
ments relatin g to all the goups of amendments as early
as possible so as to reach the Commissioners/Board before
the 5th of the next month. It is regretted that it is
not possible to allow longer time to the Commissioners/
Board to consider the matter. If in connection with any
item, the Commissioners/Board have any particular point
of principle on which they wish to seek clarification
from and to discuss further with this Ministery, the item
may be indicated for inclusion in the agenda for the
forthcoming conference of the Chairmen of the Port Trusts,
but the comments on the other items may be sent to this
Minsitry within the time limit indicated.

5. I am to add that the texts of the various amendments shown in the enclosed statment, and the statments whihh will follow, have not yet been vetted by the official Draftsman of the Government of India, and that it is recognised that there may be considerable scope for i improvement in the language of these amendments. I am therefore, to suggest that it is not necessaryfor the Commissioner/Board to concentrate so much on the language of the proposed amendments as on the principles sougth to be embodied in them.

Yours faithfully,

D.A.-Ref.
"SAX".

Sd S.K.Ghosh
Under Secretary to the Government of India

"with a spare copy to the to Rly.Ministry,

A Copy together with a *copy of the statment referred is forwarded to the:-

Administrative Officer, Cochin Harbour
Railway Ministry (Railway Board)

for communication to the Administrative officer, Vizagapatam.

( ) For A.O.Cochin only.

(It is requested that his views on the proposals embodied in the statment and in the statements to follow may be communicated to this Ministry as early as possible but not later than the 15th December 1949).

By order, etc.

D.A.-Refd.
"SAX"

Sd./S.K.Ghosh
Under Secretary to the Governmentof Indi

Statement showing the various proposals requ ring amendmets to the Indian Ports Act, 1908, and the consequential amendments to the Calcutta Port Act, 1890, the Bombay Port Trust Act, 1879, the Madras Port Trust Act, 1905, and the Calcutta Port (Pilotage) Act, 1948. - Group I.

Item No.	Brief Description of the item.	Tentative decisions of the Government of India	Proposed amendments to the various Acts.
1	2	3	4
1	Maintenace of separate Pilotage accouts.	There is at present a lacuna in the Indian Ports Act, 1908, in regard to the maintenance of accounts relating to the receipts and expenditure in respect of the pilotage service. Sub-sections(4) and (5) of section 36 of this Act experessly provide for the exclusion of receipts and expenditure on account of pilage from the receipts and expenditure accountable in the Port Fund, theby prescribing by implication the maintenance of a separate account relating to piletage, but ther is no specific or positive provision in the Act requiring the maintenance of a senarate pilatage account. On the question of the necessity or otherwise of the maintenance of a separate pilotage account, the Major Port Authorities are divided. While Calcutta and Bombay are opposed to the idea of maintaining a separate pilotage account on the groun that the various services rendered by the port authorities should be regarded as a whole financially, and that thetransaction relating to one service should not be isolated from those relating to the other activities of the port, Madras and Cochin have apparently no objection to their existing practice of maintaining a separate pilotage account being continued. Madras, however, would prefer the existing provision in the Madras Port Trust Act relating to the maintenance of a separate pilotage account to be continued, rather than have the necessary provision embodies in the Indian Ports Act. The Vizagapatam port authority also want their separate pilotage account to be continued as at their port the pilotage service has been self-supporting.	A. Amendments to the Indian Ports Act 1908. In section 36 of the Indian Ports Act, 1908, (i) the existing sub-section (6) shall be re-numbered as sub-section (9) and amplified by the insertion of the words " or of a pilotage account" after the words "port fund account" occuring therein; and (ii) the following three new sub-sections shall be inserted. "(6) All fees charged for pilotage at any port subject to this Act and all fines and penalties levied under this Act, or under any other Act for the time being in force, from pilots or other persons employed in the pilot service of the port other than fines and penalties imposed by a Court shall be credited to a pilotage account. (7) All sums so credited in the pilotage account may be applied in such proportions as the Government may from itme to time direct, to the following ourposes, namely:-

1	2	3	4
		The Government of India are inclined to agree that there is considerable force in the view held by Calcutta and Bombay, specially as the pilotage fund cannot be self-supporting at these ports unless the rates are pitched up unduly high. They, however, feel that it is desirable that a separate pro-form. pilotage account should be maintained as part of the general account of the Port. This will be in keeping with the general scheme of the Port Trusts Acts, which makes a distinction between pilotage and the other activities of the port. The Government of India accordingly propose to have suitable provision included in the Indian Ports Act as well as in the other Port Trusts Acts, so as to remove the lacuna in the former Act, and also to provide for any deficit in the pilotage account being met from this teneral account and for surplus if any in the pilotage account being likewise transferred to the general account. The Government of India also consider that pilotage fees, which are now levied at some of the major ports under other Acts, shold be levied under the Indian Ports Act. The amendments considered necessary to give effect to the conslusions indicated above are indicated incolumn 4.	(a) the purchase, maintenance and repair of such vessels and the supply of such material, stores or other thigs, as the port authority appointed under sub-section (1) may deem necessary to purchase, maintain or supply for the efficiency of the pilot service; (b) the payment of the salaries, wages and allowances of pilots or other officers and servants of the said port authority employed in the pilot service or in the supervision thereof; (c) the payment of pensions or retiring gratuities or compassionate allowances to pilats and oth r officers and servants engaged in the pilot service and the contributions to the provident fund, welfare fund or bonuses, if any, duly authorise to be made in their behalf; (d) the payment of pensions, gratuities and compassionate allowances granted by the said port authority to pilots and other officers and servants engaged in the pilot service who are injured in the course of their duty and to the surviving relatives of pilots, officers and servants so engaged who have been k lled in the execution of their duty or who may die while

still.....

1	2	3	4

still in the service of the port authority;

(e) the provision of educational, recreational and other amenities for pilots and other officers and servants of the port authority employed in pilot service; and

(f) the payment of contributions or appropriation to any special fund or funds established by the port authority under the provisions of any other Act in force at the port.

(8) Subject to the previous sanction of the Government, the port authority appointed under sub-section (1) may appointed under sub-section (1) may apply moneys credited to the general account of the port towards meeting deficits, if any, in the pilotage account and may likewise transfer the whole or part of the surplus funds, if any in the pilotage account to the general account".

B. Amendments to the Bombay Port Trust Act, 1879.

In the Bombay Port Trust Act, 1879,

(i) sections 47 and 50 shall be deleted;

(ii) all reference to the pilotage account in section 51 shall be omitted, i.e. the words "either" and "or pilotage" in para 1, "whether in respect of the general account or the pilotage account" in para 2, and the clause(b) and the proviso shall be omitted.

1	3	3	4

(iii) The following new section shall be inserted as Section 48A:-

"48A. All fees for pilotage, and all fines and penalties levied under this Act from pilots or other officers employed in the pilot service, shall be accounted for and expended in accordance with the the provisions of section 36 of the Indian ports Act, 1908 (XV of 1908)"

C. Amendment to the Calcutta Port (Pilotage) Act. 1948.

In the Calcutta Port(Pilotage) Act, 1948,

(i) Sections 7,8 and 9 shall be omitted.

(ii) The following new section shall be inserted as section 6A:-

"6A. All fees for pilotage, and all fines and penalties leved under this Act, shall be accounted for and expended in accordance with theprovisions of section 36 of the Indian Ports Act, 1908 (XV of 1908)."

D. Amendments to the Madras Port Trust Act 1905 .

In the Madras Port Trust Act, 1905.

(i) Clause (e) of section42 shall be amplified by the additionof the following words at the and;-
" excepting service to vessels inrespect of which fees are charged under the Indian Ports Act, 1908 (XVof 1908)"

(ii) The following new section shallbe inserted as section 92:-
"92A. All fees for pilotage, and all fines and penalties levied under this aAct frompilots or other officers employed in the pilot service, shall be accounted.

ii) * for and expended in accordance with the provisions of section 36 of the Indian Ports Act, 1908 (XV of 1908)"

iii) Sections 93 & 94 shall be omitted and references to section 94 in sections 28, 28-A and 74 Shall be construed as reference to sec. 724 .

1	2	3	4
2.	Question of application to sea-planes of the provisions of the Indian Ports Act, 1908 and of the other Port and the Acts applicable to "vessels" at the various major ports.	According to a ruling given by the Legislative Department of the Government of India in 1943 the term "vessel", as defined in section 3(7) of the Indian Ports Act, does not cover sea-planes or flying boats as these are not designed for carrying passengers - or goods by water. This ruling is contrary to an earlier ruling given on the same subject. To put the matter beyond doubt, and to ensure that the Indian Ports Act does apply to sea-planes or flying boarts using any port , as it applies to vessels which ply in water at the port, it is proposed to undertake necessary legislation. All the Major Port Authorities are in favour of such legislation being undertaken. The Bombay and the Madras Port Trusts also want their own Port Trust Acts to be amended likewise. To this the Government of India see no objection. As all the sections of the Indian Ports Act and the other Port and Port Trust Acts do not apply to vessels at the port, what is proposed is to insert a new section in each of these Acts, specifying only such sections of he Act as should apply in relation to sea-planes and flying boats while on water, as they apply in relation to vessels. The Ministry of Communications(DGCA.) , however, sug gest that the proposed new sectin should be made generally applicable to " aircraft likely to make use of the port while on water", to cover all types of aircraft capable of alighting on or taking off from water and not merely sea-planes and flying boats . This suggestionis proposed to be accepted. The specific amendments to the various Acts considered necessary for the Purpose are indicated in the next column.	A. Amendments to the Indian Ports Act, 1908 In the Indian Ports Act, 1908 - (i) In sub-section (7) of section 3, the the word "principally" shall be inserted after the word "conveyance" occuring therein; and (ii) the following new section shall be added to Chapter VIII of the Indian Port Act, 1908, as Section 70:- "70. The provisions of sections 6, 13, 14,15,16,21,31,43,44,45 and 55 of this Act shall apply in relation to all aircraft likely to make use of the port while on water asthey apply in relation to vessels". B. Amendments to the Madras Port Trust Act, 1905. In the Madras Port Trust Act, 1905 - (i) In Sub-section (13) of section 5, the word "principally" sall be inserted after the word "conveyance" occuring therein; and (ii) in Chapter XVIII, the following new section shall be added as section 109A:-

"109A. The provisions of sections 36,39, 42, 43, 60,61,62,95, 102, 107 and ~~xiiiii~~ of this Act shall apply in relation to all aircraft likely to make use of the Port while on water as they apply in relation to vessels".

C. Amendments to the Bombay Port Trust Act, 1879.

In Chapter IX of the Bombay Port Trust Act, 1879, the following new section shall be added as section86A:-

"86A. The provisions of sections 43, 43A 45, 66,67,68,73,83, 84 and 87 of this Act shall apply in relation to all air- craft likely to make use of the port while on water as they apply in relation to vessels".

D. Amendment to the Calcutta Port Act, 1890.

In Chapter X of the Calcutta Port Act, 1890, the following new section shall be a ded as section 143:-

"143. The provisions of section 35,89,91, 99, 100, 101, 102, 104, 104A, 105, 106, 121 122, 126 and 133 of this Act shall apply in relation to all aircraft likely to make use of the port while on water as hey apply in relation to vessels.

3.	Recovery of cost of removal of inmpediments to navigation.	Section 14 of the Indian Ports Act empowers the Conservator of a port to raise, remove or destroy any vessel which may have been wrecked, stranded or sunk so as to impede navigation at the port. This section also provides that if, in so removing any impediment, any property is recovered which is unclaimed or is claimed by a person who fails to pay the incidental expenses incurred by the Conservator, the latter has the power to sell the propoerty by public auction in order to recover such expenses out of the sale proceeds. The Section, however, does not provide for any remedy in cases whre the expenditure incurred by the Conservator exceeds the sale proceeds. The section, however, and the proposal under consideration is intended to rectify this defect in the Act. Of the Major Port Authorities who were consulted, Calcutta and Bombay are not in favour of any provision being made for the purpose, on the ground that the cost of removal of wrecks is never likely to be so great as to upset the finances of the Port and that the port authorities could suitably carry the risks themseleves. The Madras Port Trust have, however, no objection to a suitable addition being made to the Indian Ports Act for the purpose, and have also suggested a similar provision in respect of sections 10 and 11 of the Act, under which the Conservator has the power to remove any timber, rafts, etc., floating or being in any part of the port so as to restrict or impede free navigation and to meet the cost of such removal by the sale of the material so removed.	"(4) If in any case the proceeds of slae of the property recovered is less than the aggregate amount of the expenses and the aforesaid furhter sum of twenty per cent, it shall be the liability of the owner of the property to make good the balance to the Conservator, and if the owner fials or neglects to pay the balance on demand within a reasonable period of time, the conservator may recover the said balance either by recourse ti section 57(2) of this Act or by suit according as the claim does not or does exceed one thousand rupees". <u>Amendment to the Indian Ports Act. 1908</u> The following sub-section shall be added as sub-section (4) to Section 14 of the Indian Ports Act-

1	2	3	4
		While there is some force in the contention of Calcutta and Bombay that the experience of the past does not warrant any change in the present position, and while it is recognised that the British ports are exactly in the same position in this respect as the Indian ports at present are under the Indian Ports Act, the Government of India feel that the balance of advantage lies in favour of conferring on the Conservator specific powers to recover, by other means, such part of the expenses as is not recoverable by the sale of the property salvaged under section 14 of the Act. It is not beyond the realms of possibility that cases may occur when the Conservator of a port may have to incur very heavy expenditure in the removal of wrecks, etc., and the Government of India consider that provision should be made in the Act to cover such contingencies.	
		There is , however, little justification for a similar provision being made in the Act in regard to the recovery of expenditure on the removal of floating timber, etc., which the Conservator may have to inour under section 10 of the Indian Ports Act, as such expenditure is likely to be inconsiderable as compared to the expenditure on the removal of wrecks under section 14. Moreover, section 10(2) makes the owner of such timber, etc., liable to pay the reasonable expen sss of the removal thereof as may be incurred by the Conservator and, thereofre, it is open to the latter to invoke the provisions of section 57(2) for the recovery of the balance (which cannot be realised by the auction of the materials etc.) upto the extent of Rs. 1000/-.	
		The amendment considered necessary to section 14 of the Indian Ports Act is indicated in the next column.	

1	2	3	4
4.	Question of providing for power to regulate rates of hire of cargo boats.	No power is at present available to Government or to any port authority for regulating rates of hire of cargo boats plying for hire within the port or partly within and partly outside the port. Clause(k) of sub-section (1) of section 6 of the Indian Ports Act gives power to Government to regulate the rates of hire of passenger boats but not for cargo boats. A reference to the proceedings which led to the enactment of the Indian Ports(Amendment) Act of 1916 to the reveals that the Select Committee deliberately modified the Bill se as to exclude cargo boats from the scope of that clause while it allowed passenger boats to be included. Of the Major Port Authorities who were consulted on the need for an amendment to the Indian Ports Act in this respect, Calcutta and Bombay have expressed themselves against any such amendment as they think that the rate of hire for cargo baots should be left to be regulated by ordinary competiotion. The Madras Port Trust and the Cochin and Vizagapatam Port Autherities are, however, agreeable to the proposal to have suitable provision made in the Indian Ports Act for the purpose. The Government of India are unable to appreciate the objection of the Calcutta and Bombay Port Authorities as they feel that, in times of emergency, or in the event of concerted action by boat owners, it may be found useful to have the necessary power to regulate the hire for cargo boats. In fact, a situation did arise at the Cochin Port during the War when resort had to be made to the Defence of India Rules then in force to prescribe cargo boat hire rates. Since power to regulate the hire of paassenger boats is already available uder section 6(1) (k) of the Indian Ports Act, and neither Calcutta nor Bombay have suggested that yhe same is unnecessary, the Govt. of India feel that, whatever may have been the justification of the Legislature in 1916, in denying them	<u>Amendment to the Indian Ports Act, 1908.</u> In clause (k) of sub-section (1) of section 6 of the Indian Ports Act, 1908, the word "passenger" where it last occurs shall be deleted.

the....

1	2	3	4
		The power to control cargo boat hire while conferring on them the power to control passenger boat hire, such dstinction is altogether untenable in the conditions of today, and that necessary provision should be made in the Indian Ports Act to empower them to prescribe rates of hire for cargo boats and to lay down conditions under which such boats shall be compelled to ply for hire.	
		This can be achieved by a very simple amendmnets to sec. 6(1) which is indicated in the next. column.	Amendment to the Calcutta Port Act. After section 90 of the Calcutta Port Act, the following new sectionmay be added as section 90A:-
5.	Question of conferring on the Calcutta Port Commissioners power to maintain lighters of their own and to levy charges for the use of such lighters.	While conveying their comments on the proposal dealt with under item 4 above, the Calcutta Port Commissioners asked for an amendment to the Calcutta Port Act to enable them to maintain lighters of their own and to levy charges for the use of such lighters.	"90A. Nothing in the foregoing section shall prevent the Commissioners from maintaining lighters and using them in connection with the landing and shipment of goods between sea-going vessels in the port and the docks, wharves, quays, stages, jetties or piers belonging to them.
		Under section 90 of the Calcutta Port Act, the Commissioners are empowered to keep and maintain sufficient servants and "apparatus" for expeditious and convenient landing and shipment of goods from and upon all sea-going vessels brought to the docks, etc. If, for the expenditious and convenient landing and shipment of goods from and on to ships which have already been berthed in docks, etc. at the Port, it is necessary for the Commissioners to maintain and employ lighters, it would be possible for the Commissioners to do so if after the word"apparatus" in section 90 the words "including lighters" are inserted. It is, however felt that it would be better for the Commissioners to have general power to maintain lighters and to employ them in connection with the landing and shipment of goods from and upon vessels which are in the port but not necessarily alongside one of the Commissioners docks, wharves, etc.	

Under ... .

1	2	3	4
		Under the Bombay and Madras Port Trusts Acts (Section 45 and 39(1) respectively) general power is available to the Port Trust Board to undertake landing, shipment or transhipment of goods between vessels in the port and the wharves etc. On this analogy, the Govt. of India feel that the best thing will be to insert anew section, as indicated in the next column, in the Calcutta Port Act as section 90A. In view of the general power available under section 103 and 105 of the Calcutta Port Act, no special provision is considered necessary to empower the Commissioners to frame a suitable scale of charges for the use of the lighters.	
6	Remission of port charges levied under the Indian Ports Act, 1908.	No power is now available under the Indian Ports Act, 1908, for the remission of charges levied in pursuance of sec. 35(1) of that Act in respect of pilotage and other services rendered to vessels to vessels. It has been suggested by the Madras Port Trust that suitable provision should be made to permit of such remissions being allowed. In the past, cases did arise in which the Govt. of India had to accord extra-legal sanction to the remission of charges made under the Indian Ports Act. The Govt. of India, therefore, have no objection to a suitable provision being included in the Indian Ports Act as suggested, specially in view of the fact that powers of remission in respect of charges leviable under the Madras and the Bombay Port Trust Acts are already available, vide sections 42(2) and 34A(2) respectively of those two Acts. The specific amendment considered necessary is shown in the next column.	Amendment to the Indian Ports Act, 1908. The following new sub-section shall be added to section 35 of the Indian Ports Act, 1908:- "(3). The Government may, in special case remit the whole or any portion of thefees chargeable under sub-section(1) or (2)".

Under...

1	2	3	4
7	Question of amending section 2(i) of the Indian Ports Act, 1908 vis-a-vis the 1927 Agreement entered into by the Govt. of Indian with the Major Port Authorities regarding payments of port dues and other the port charges on vessels belonging to or in theservice of Govt.	Under the saving clause(i) of section 2 of the Indian Ports Act, 1908 nothing in that Act applies to vessels belonging to or in theservice of His Majesty or to vessels of war belonging to any Foreign Prince or State. This exemption applies not only in respect of Govt. owned and Government hired vessels employed on national defence but also in respect of such cessels employed in commercial or quasi-commercial activities. During the years 1915-1920 there were many representations from Major Port Authorities and various Chambers of Commerce for amendment to Sec. 2(i) of the Indian Ports Act to restrict its seope only to men of war and to and to ships actuallly engaged in the conveyance of troops, their baggages, etc. The representatons generally urged that during the World War I a large number of vessels chartered by Govt. entered the ports and claimed exemption and that it was wrong in principle for Government to claim exemption from dues levied for the general upkeep of ports equipped and maintained solely out of dues levied on shipping and trade. The Govt. of India were, however, unable to accede to these requests as they were not prepared to abandon the Crown prepogative that shipping employed on national defence should be exempted from dues levied by local bodies for the general facilities which such local bodies provided. They were, however, prepared to give up their right to preferential treatment in respect of Government vessels, or vessels hired by Government, employed in commercial and quasi-commercial operations. Protractednegotiations betwee the Govt. of India on the onehand andthe Port Authoritieson theother anther onsuedand in 1927 an agreement wasconcluded, under which the Govt. of India gave up by arrangement all the concessions that Govt. owned and Govt. hired vessels were entitled to under Sec. 2(i) of the Indian Ports Act andSec. 4 of the Indian Tolls (Army) Act, 1901 except port dues and certain other specified charges in respect of (a) vessels of war (including, in times of war, ~~in respect~~ mine sweepers and patrol vessels), and (b) vessels employed solely in the transport of personnel of the Defence Fprces, their families, military animals, military equipment, munitions of war, etc. (including Fleet Auxiliaries, hospital.....	

1	2	3	4

Hospital ships, ambulance transports).

The 1927 Agreement is still in force. During World War II - certain additional concessions were sanctioned by the Port Authorities for vessels and cargo employed or intended to be used in connection with the war effort but these lapsed after that war. It is not the intention at present to take up the question of the revision of the 1927 Agreement itself. The question for consideration is whether the present opportunity of revising the Port and Port Trusts Acts should be taken to amend section 2(i) of the Indian Ports Act so as to restrict the scope of that section to vessels which in practice enjoy certain limited concessions under the 1927 Agreement.

On the question of the continuance of the prerogative rights of Government that shipping employed on duties of national defence should be exempted from imposts levied by the local bodies for the general facilities which such local bodies provide, the attitude of the Government of India remains unchanged. They are not prepared to abandon this prerogative and do not countenance any legislative chage which will restrict it in any way. In practice, however, they have already contracted themselves out of the full benefit accruing under section 2(i), and this is the farthest limit that they are prepared to go. Accordingly, the Government of India do not propose to carry out any amendment to section 2(i) as they prefer the matter to continue to be governed by agreement as at present, which is an elastic arrangment.

123-125

1813 /48

P.W. D.

M.B (Part)

Submitted.

2. Govt. of India, Ministry of Transport, have enquired whether the Provincial Govt. have any objection to the proposed amendments to the Indian Ports Act being made applicable to Ports other than Major Parts, so that G. of I. may decide whether the said amendments shd be made applicable to only major Parts or all the Ports i.e. even Minor Ports.

3. Remarks are to be communicated before the 15th December 1949.

4. There are seven items in the Group I as detailed in the amended Statement Remarks are called for only the proposed amendments in the Indian Ports Act.

5. The Indian Ports Act is put up herewith. The relevant page nos shown on the statement of proposals.

Id-/

3-12-49.

Item. 1. Maintenance of separate Pilotage a/c.

Pilotage service should be self sufficient. & should pay for itself as far as possible. Maintenance of a separate statutory Pilotage fund with provision permitting transfer of surplus & defecit amount to and from general funds may be recommended for adoption .

2. Vessels may be defined also to include air crafts making use of the Port while on water.

The Port Trusts are responsible for conservancy of the Port & if expenses ~~exceed~~ exceed (which they are not normally likely to) the value of the property to be recoverd, the Port Trust should bear it.

The provision for recovery is really not necessary ~~and it~~ and it would be ~~had~~ hard on owner of the property already ~~discard.~~ discarded Would be ~~very~~ very useful in emergency.

Yes.

Services & supplies should be charged for the position may be left elastic.

We may agree to all the amendments.

Id/-
3/12/1949.

We may have no objection to the proposed amendments being made applicable to "Minor Ports" by central legislation.

Id/-
5-12-49

Secy.

127

1813/48

P. W. D.
M.B.(Ports)

Submitted with refec to the office note dated 3-12-49.

2. In view of Secretary(s note dated 5-12-49, Govt. of India, Ministry of Transport, may be informed accordingly.

3. The draft letter may issue.

Id/-
5/12/49

Id/-
5/12

Id/-
6/12

-427-

P. W. D.

BC15 December1949

(B, No. 1)

No. 1813/48-M(P)

To

The Under Secretary to the Govt. of India,
Ministry of Transport,
New Delhi.

Sub:-Existing Ports and Port Trust Acts-
Revision of

Sir,

With ref. to your letter no.xxR 2-P(1)/49 dated the 26th November 1949, I am directed to inform you that the Bombay Govt.has no objection to the proposed amendments to the India Pots Act 1908 being made applicable to "Minor Ports" by the Central legislation.

Yours faithfully

D.A.Nil.

Telegrams:
"TRANSPORT"

GOVERNMENT OF INDIA
MINISTRY OF TRANSPORT

No.2-P(S)/49
Dated, New Delhi, the ~~21st~~ 13th December, 1949

From

S.K.Ghosh, Esquire,
Under Secretary to the Government of India.

To

The Secretary to the Government of Bombay,
Public Works Department,
BOMBAY

Subject:- Revision of the existing Port and Port Trust Acts.

Sir,

In continuation of this Ministry's letter No.2-P(1) /49, dated the 26th November, 1949, I am directed to forward herewith for comments, if any, a further statement (Groups 6) relating to the proposals for amendments to the existing Port and Port Trust Acts in respect of the Revenue, Expenditure and Accounts of the Port Trusts.

Yours faithfully,

Sd/- S.K.Ghosh
Under Secretary to the Govt. of India.

Encl.Statement.
MANCHAND 13/12.

Statement showing the various proposals requiring amendments to the calcutta port Act, 1890, the Bombay Port Trust Act, 1879, and the Madras port Trust Act, 1905, relating to matters concerning Revenue, Expenditure and Accounts of the Port Trust. - Gropu 6.

1.	2.	3.	4.
Item No.	Description of the item.	Tentatife decisions of the Government of India.	Proposed amendments to the Various Acts.
1.	Question of merging the Madras Port Fund Account with the Madras Port Trust-Fund Account.	Under section 36 of the Indian ports Act, 1908, port dues, and fees chargeable under that Act, in respect of Services rendered to vessels other than fees levied on account of pilotage, have to be accounted for under a separate account called the port Fund Account. Accordingly, the Madras Port Trust maintain a Port Fund Account, which is distinct from the General Account of the Port Trust maintained under the Madras port Trust Act, At the Bombay Port, no separate port Fund Account is maintained but the receipts and expenditure relating to the Port Department are shown under a separate section of the General Account maintained by the Port Trust under the Bombay Port Trust Act. At the Calcutta port, no separate Port Fund Account is maintained nor any separate-Section is maintained in the General Account of the Commissioners to book income and expenditure relating to the Commissioners' Port Department. This is evidently because there is a specific provision under section 123 of the Calcutta Port Act which prescribes that the revenues derived by the Commissioners as Conservators of the Port shall be deemed to be a portion of their annual estimates and accounts. A separate Port Fund Account was not prescribed for vizagapatam Port, but at Cochin, a port Fund Account was maintained till 1940 when it was merged in the Cochin Landing and Shipping Fund. The Maintenance by the Major port Authorities of two separate accounts (besides the pilotage Account),one relating to the revenue and expenditure under the relevant Port Trust Act and the other relating to revenue and expenditure	A. <u>Amendment to the Madras Port Trust Act.</u> (i) The following new section shall be added as section 94 A :- " 94 A . (1) All port dues, fees or other charges received by the Board as Conservator of the Port or received by them under ~~my~~ any authorisation issued in their favour under section 36 of the Indian Ports Act, 1908 (Act XVof 1908) shall be deemed to be a portion of the Board's income and shall be included in their annual estimates and accounts. (2) All the powers, authorities and restrictions contained in this Act in respect of the works by this Act authorised. Shall apply to the works which may be executed by the Board as such Conservator,to the sanction thereof, the estimates therefore, and the expenditure thereunder ." (ii) Section 49 shall be deleted. (B).

1.	2.	3.	4.

expenditure under the Indian ports Act, was prescribed evidently on the behalf that a distinct Port Fund Account would help in determining the rate of port dues and the rate of fees for specific services to,vessels to be levied under the Indian Ports Act. It is recognised that in practice this purpose is not served by maintaining such a separate account. The idea that each Department of the Port Should be self supporting is, it is recognised, impracticable and there had been occasions in the past when funds had to be transferred from the General Account to the Port Trust Fund Account and vice versa. Since the scheme of the various port Trust Acts does not envisage the maintenance of separate accounts relating to the Port Department of the Ports concerned as it does in the case of the Pilotage Department, the Govt. of India are inclined to agree that it is unnecessary to maintain a separate port Fund Account. They however, feel that since the revenue which is credited to the Port Fund Account is derived under the Indian Ports Act and since such revenue will continue to be derived under that Act and not under the relevent Port Trust Act under which a General Account is maintained by the Port Trust, it is considered desirable that the General Account, should, after the merger with the it of the Port Fund Account, present a separate proforma indication of the total revenue derived and expenditure incurred under the Indian Ports Act.

The Specific amendiments that are considered necessary to give effect to the tentative conclusion of the Government of India as indicated above are shown in the next column.

(B) Amendment to the Bombay Port Trust Act.

The following new section shall be added to the Bombay Port, Trust Act as section 72 A:-

" 72 A (1) All port dues, fees or other charges received by the Board as conservator of the Port or received by them under any authorisation issued in their favour under section 36 of the Indian Ports Act, 1908 (Act XVof 1908) shall be deemed to be a portion of the Board's income, and shall be included in their annual estimates and accounts.

(2) All the powers, authorities and restrictions and contained in this Act in respect of the works by this Act authorised, shall apply to the works which may be executed by the Board as such conservator, to the sanction thereof, the estimates therefore, and the expenditure there under ."

(C) Amendment to the Calcutta Port Act.

(i) Sub- Section (1) of section 123 shall be amended to read as under. :-

(i) All Port dues, fees or other charges received by the commissioners as conservator of the Port and of the Port approaches or received by them under any authorisation issued in their favour under section 36 of the Indian. Ports Act, 1908 (Act XVof 1908) , shall be deemed to be a portion of the Commissioners' income and shall be included in their annual estimates and accounts. "

(ii) In section 3, the following definition of " Port approaches " shall be inserted as clause (8A) :-

"(8A)....

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			" (8A) . ' Port approaches ' shall mean the nevigable rivers and channels leading to thePort of calcutta as from time to time defined by notification issued by the central Government under Section ~~by the Central~~ 5 of the Indian Ports Act, 1908, (Act. XVof 1908). Note :- (The inclusion of a defination for the - expression " port approaches " is considered necessary as Calcutta is a river port with a long lane of - approach from the sea to which the Indian ports Act has been extended and in respect of which the - Calcutta port Commissioners have been appointed as the Conservator.) D. Amendment to the Indian Port Act, 1908. The following proviso shall be added to Sub-Section (2) of section 36 of the Indian Ports Act. " Provided that, if so authorised under the Provisions of any other Act applicable to any port, the Port - Fund Account relating to that port shall be merged with the general Account of that port maintained - under that Act but shall be exbited as a separate section of such Generah Account. ". A. Amentment. .... Continued. on next page.

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2.	Proposed amendments - to the Port and Port-Trust Acts to empower the Port Authority to make reapporiations of funds within the - sanctioned budget - grants under the same major head.	Under the Bombay Port Trust Act, the Port Trust have no - power to sanction reappropriations of funds from one major head of account to another, or even from one Sub-head of account to another sub- head under the same major head of account, within their sanctioned budget grants. If the Board requires additional funds in the course of the financial year for meeting any new items of expenditure for which no provision has been made in the sanctioned estimates, or meeting any item of - expenditure for which provision already made has proved to be inadequate, a supplementary estimate has to be prepared by the Board and referred to Government for approval, vide section 55 of the Bombay Act. The Only exception is provided under section 56, which authorises the Board to expend upto Rs. - 5000/- only on any item not included in any sanctioned estimate. In cases of pressing emergency, however, section 56 allows the Board to expend any amount exceeding Rs. 5000/- without Government's prior consent but subject to an immediate report to Government. The existing powers of the Madras port Trust in this matter are on the same lines as those of Bombay through somewhat more restrictive, vide sections 77,78,and 86 of the Madras Port. - Trust Act, the difference being that, unlike Bombay, the Madras Board cannot ordinarily spend any sum on any item exceeding the provision made for that item in the sanctioned estimate and, further that in cases of pressing emergency, a sum not exceeding Rs. 5000/- only can be spent by them without the prior sanction of Government . The existing powers of the calcutta port Commissioners in this matter are, however, wider than those of Bombay. Section 72A of the Calcutta Port Act, empowers the commissioners to expend, without the prior approval of Government, any sum not included in the sanctioned estimate, (a) Which is chargeable to revenue and the expenditure of which could not be anticipated at the time of the preparation of the estimate, provided such expenditure is covered by revenue earnings already accured upto the time, or (b) the ...	A. Amendment to the Bombay Port Tnust Act. The following new section shall be added - as section 55.A- " 55A. subject to any directions which the Central Government may give in this behalf, any sum of money or part thereof, of which - the expenditure has been authorised under any estimate for the time being in force and which has not been so - spent, may at any time be reappropriated by the Board to meet any excess under any other item of expenditure authorised in the said estimate. Provided that no such reappropriation shall be made from one major head of account to another without the previous sanction of the Central - Government. " B. Amendment to the Madras Port Trust Act. The following new section shall be - added as section 86 A:- "86A. Subject to any directions which the Central Government may give in this behalf any sum of money or part thereof , of which the - expenditure has been authorised under any - estimate for the time being in force and which has not been so spent, may at any time be - reappropriated by the- the Board to meet any excess under any other item of expenditure - authorised in the said estimate. Provided....

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2.		In the interests of uniformity, the Government of India feel that the powers of reappropriation now enjoyed by the Calcutta port Commissioners under section 72 A (b) of the Calcuttla port Act should be curtainled to the extent indicated above for Bombay and Madras. It is felt that this curtailment will not handicap the Calcutta port commissioners as they have sufficient powers under Sections 72, 72A,-(a), 73and 74, of their Act so far as items of expenditure not included in the annual estimtes are concerned. The specific amendments considered necessary in the three Acts are shown in the next column.	A. <u>Amendment to the Calcutta Port. Act.</u> The following new section shall be added as section 75 A :- "75A. No expenditure shall be charged by the Commissioners to capital without the previous sanction of the Central Government. " (Note :- An amplification to the proposed section 75 A has been suggested under item. 4.)
3. ndment- of the Calcutta port Act to provide that no expenditure should be charged to capital without the sanction of the Central Government.	Section 75 of the Madras Act and section 39 (iii) of the Bombay Act contain specific provision to the effect that no. expenditure should be charged to capital without the prior sanction of the Central Government. Similar provision also exists in the Karachi port Act and the Chittagong Port Act but there is no such provision in the Calcutta Act. The Calcutta port commissioners are croposed to such a provision being included in their Act but the Bombay and Madras port Trusts have raised no objection to the existing provision in their Acts being continued. The condition of the Calcutta Port Commissioners is that if they are able to manage their affairs, ~~they are~~ they are also capable ofdeciding what expenditure should be charged to capital and what should not be so charged. The Government of India are, however, inclined to think that Government should have the same control in the matter in regard to the Calcutta port as they already have in respect of the other Major Ports. This is not a reflection on the capabilities of the Port Commisioners but a measure calculated to introduce some amount of uniformity in regard to control exercised by Government over capital expenditure at the various Major Ports. Moreover, large items of capital expenditure are generally met from borrowings for which Govt. sanction is necessary. It is , therefore, in the fitness of things that Government sanction should be obtained for charging such expenditure to capital and it is desirable that the same principle should apply even in connection with the capital expenditure which is not financed from borrowings. The ...	B. <u>Amendments to the Bombay Port Trust Act.</u> (i) Clause (iii) of the proviso to section 39 shall be deleted. (ii) The following new section shall be inserted as section 56 A :- " 56 A.- No. expenditure shall be charged by the Board to capital without the previous sanction of the Central Government. " (Note :- An amplification to the proposed section 56 A has been suggested under item 4.)

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2.	------	(b) the expenditure of which can met from ascertained savings on the estimate as a whole subject to a limit of Rs. 50,000/- on any single item and Rs. 1,50,000/- in any one year. In addition, the Calcutta Port commissioners are authorised, under section 73, of their Act, to expend without the prior sanction of Government upto Rs. 20, 000/- on any item not included in any sanctioned estimate; and in cases ~~as~~ of pressing emergency, can spend an unlimited amount - subject to a report being sent forthwith to Government. The Bombay Port Trust want power to sanction reappropriations of savings under the same major head of account - within their sanctioned budget grant. The Madras port Trust also want similar powers but , it appears, they wish to be allowed to reapperopriate funds even from one major head of account to another within their sanctioned budget grant so long as they do not exceed the total grant sanctioned in the budget . The Calcutta port Commissioners wish to retain their present powers which do not restrict them to use the saving under the same main head but allow the utilisation of savings in the sanctioned estimate as a whole. The Government of India see no objection to suitable powers of reappropriation being entrusted to the Bombay -- and the Madras port Trust but they do not favour the idea that the port Authorities should ~~be~~ have power to reappropriate money from within the sanctioned estimate as a whole. For instance, the Government of India do not think that the - ports should be allowed to reappropriate funds from revenue to capital and vice versa, without specific Government Sanction. They also feel thatthe Port Authorities should not be allowed to find funds by reappropri ation of savings for new items of work not included in the estimates. The Port Authorities may utilise the savings under ~~the~~- one main head of account to provide additional funds, if any required for any items of ~~ex~~ expenditure already included under the same main head in the sanctioned estimates. In The	Provided that no such reappropriation shall be made ~~s~~ from one major head of account to another without the - previous sanction of the Central Government. " (III) In section 73, for the words " section 72A, " the words " sections 72A and 72 B" shall be substituted.

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		The specific amendment to the Calcutta Port Act is indicated in the next column. Although section 39 (iii) of the Bombay Act already provides that no expenditure shall be charged to capital without the sanction of the Central Government, this provision is out of place in its present setting. Section 39 occurs in chapter v of the Bombay Act which relates to the borrowing powers of the Board and specifies the purpose and the manner in which the Board can raise money. In this setting section 39 (iii) is liable to give the impression that Government sanction to any expenditure being charged to capital is required only in respect of such capital expenditure as is incurred from loans but this is not evidently the intention. It is, therefore, proposed to make an amendment in the Bombay Act as indicated in the next column.
Question of amending the Port Trust Acts to permit of excesses over the sanctioned estimates chargeable to capital being also charged to capital without any further Sanction of the Central Government.	As stated under item 3, legal provision already exists in the Madras and the Bombay Acts requiring the prior sanction of the Central Government ~~o~~ to every item of expenditure proposed to be charged to capital and, although there is no such provision in the Calcutta Port Act, now, it is proposed to insert a suitable provision in that Act. on a strict interpreation. the existing and the proposed legal provision in the relevant Acts is capable of the only constuction that the Port authorities have to come up to Government for further sanction to cover the excess, if any, over the amount that may have been sanctioned by the Government in any case as chargeable to capital. It is quite conceivable that in many cases there would be a small excess over the expenditure sanctioned as chargeable to capital unless Government sanction has been obtained on the basis of actuals. It is realised	A. <u>Amendment to the Madras Port Tnust. Act.</u> In the existing section 75, the following proviso shall be added ~~to~~ at the end. :- " Provided that no further sanction of the Central Government shall be necessary if in any case the actual expenditure incurred exceeds the expenditure already sanctioned as a charge to capital and the excess is not more than 10 percent of such sanctioned expenditure." B. <u>Amendment to the Bombay. Port Trust Act.</u> In the proposed new section 56 A (vide ~~i~~ item ....

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		that where the excess is small, it amounts to a needles formality for the Port Authority to obtain specific Government sanction to such an excess. The Government of India, therefore, consider that on the analogy of rule 65 of the Central P.W.D. Code, the existing and the proposed legal provision in the relevant Port Trust Act should be amplified so as to specifically prescribe that no further sanction of Government would be necessary to the debit of the excess to the capital if such excess is not more than 10 percent of the expenditure already sanctioned by Government as a charge to capital. The specifica amendments considered necessary to the three Acts are indicated in the next column.	item 3 above), the following proviso shall be added at the end:- "Provided that no further sanction of the Central Govt. shall be necessary if in any case the actual expenditure incurred exceeds the expenditure already sanctioned as a charge to Capital and the excess is not more than 10 percent of such sanctioned expenditure". c. <u>Amendment to the Calcutta Port Act.</u> In the proposed new section 75A (vide item 3 above), the following proviso shall be added at the end:- "Provided that no further sanction of the Central Govt. shall be necessary if in any case the actual expenditure incurred exceeds the expenditure already sanctioned as a charge to capital and the excess is not more than 10 percent of such sanctioned expenditure".
5. Question of amending section 74A of the Madras Port Trust Act to enable the Port Trust Board tostart a Capital Reserve Fund.		Section 74A of the Madras Act authorises the Port Trust Board to build up Reserve Funds for certain stated objects by setting apart moneys out of their surplus income. In 1937, the Port Trust Board wished to create a Capital Reserve Fund under this section but the Government of India were advised that such a fund could not be formed under section 74A as its objects were foreign to those for which Reserve Funds could be formed under that section, and that it was not legally permissible either for the Revenue Reserve Fund of other Reserve Funds already constituted by the Board under section 74A to advance money to the Board for execution of capital works. What was permissible was for the Board to invest the moneys lying in their Reserve	

Funds.....

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		Funds in their onw securities and apply the loan thus raised against such securities onthie capital works, but it was not possible for the Madras Port Trust to take full advantage of his course, as, unlike the calcutta and the BombayActs, the Madras Act did not specifically empower the Board to reserve the whole or part of any loan floated by them for their investments. Under item No. 4 of Group 5, it is proposed to insert a specific provision in the Madras Port Trust Act to enable them to reserve the whole or part of any loan floated by them for their investments. In view of that proposal, the Government of India agree with the Madras port Trust that it is not necessary to amplify section 74A of the Madras Port Trust Act to provide for the formation of a Capital Reserve Fund.	

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6.	Proposed amendments to the Port and Port Trust Acts to empower Government to prescribe the form of accounts and to require the submission of a monthly statement of income and exependiture to Government.	Section 69(1) of the Calcutta Port Act empowers the Central Government to prescribe the form and/detail under which the annual estimates of the income and expenditure of the Port shall be prepared for consideration by the Commissioners. Similar power to prescribe the form in which the income and expenditure of the Madras Port should be prepared is also available to Government under section 82 of the Madras Port,Trust Act. No such power is, however, available to the Central Government in respect of the Bombay Port, as section 52 of the Bombay Port Trust Act, which corresponds to sections 69(1) and 82 of the Calcutta and the Madras Acts respectively, confers the power of prescribing the form and detail of the estimates on the Port Trust Board and <u>not</u> on Government. Since the form of accounts generally follows the form in which the annual budget is drawn up, the Central Government thus have in effect power to prescribe not only the form in which the budget estimate is to be prepared, but also the form in hich the account should be kept. in respect of the Ports of Calcutta and Madras only but not in respect of Bombay. The Calcutta Port Commissioners want the same right as possessed by the Bombay Port Trust at present to decide the form and detail in which the budget estimates of the Port shold be prepared. On the other hand, the Bombay Port Trust have no objection to	A. <u>Amendment to he Bombay Port Trust Act.</u> (i) In section 52, for the word "Board", where it last occurs, the words" Central Government", shall be substituted. (ii) The following new section shall be added as section 58A:- "58A(1). The Board shall annually, or oftener if directed by the Central Government so to do, submit sstatements of their receipts and disbursements in such form and at such time as the Central Government may direct. (2) A copy of all such statements shall be open to the inspectionof the public at the office of the Board during office hours on payment of one ruppe for each inspection"

Government ....

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		Government having power to prescribe the form and procedure of accounts provided such power is confined to the principal statements of accounts, such as the Balance sheet and the Summary of Revenue receipts and expenditure In regard to the subsidiary details and other matters, the Bomaby Port Trust wish to be left free to devise and adopt forms best suited to their own requirements. The Madras Port Trust Board consider that no amendment to their Act is necessary as section 82 of their Act already gives power to the Central Government to prescribe the form of the Trust accounts. The public is generally interested in Port Trust accounts especially as the Port Trust debentures are freely negotiated in the market. It is, therefore, desirable that such accounts should be prepared and presented to the public in a simple, uniform and easily intell gible way. The Government of India have certainultimate responsibilities in regard to the working of the Major Ports and they feel that they should have the right to prescribe the form and procedure not only of the budget estimates but also of the accounts of the Port Authorities. They, however, do not think that it is necessary to prescribe in the Acts such things as whether the Balance Sheet of the Ports should be drawn up on the basis of the double entry system of keeping accounts, or whether the accounts should be on the cash or accrual basis and such other matters of detail. What Government feel would be sufficient is that provision should be made in the relevant Acts to empower them to issue broad directions in regard to the form and procedure of the accounts to be maintained by the Port Trusts leaving the latter free to settle the matters of details for themselves.	B, <u>Amendments to the Madras Port Trust Act.</u> (i) In section 82, for the words "every such such estimate shall be in such form", the words, "every such estimate shall be in such detail and form" shall be substituted. (ii) The following new section shall be added as section 86B:- "86B(1). The Board shall annually, or oftener, if directed by the Central Government so to do, submit statements of their receipts and disbursements, in such form and at such time as the Central Government may direct. (2) A copy of all such statments shall be open to the inspection of the public at the office of the Board during office hourse on payment of one ruppe for each inspection."

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		To achieve this object, and also at the same time to secure some measure of uniformity, in the three Acts, the amendments indicated in the next column are considered necessary. In this connection, the Central Government also feel that they should have powers similar to those available to Government under section 94 of the Chittageng Port Act and section 56 of the Rangoon Port Act, to enable them to direct the submiss on by the Port Authorities of statments of the receipts and disbursements in such form and at such times as they may desire. This power is necessary to give legislative sanction to the monthly statements of receipts and expenditure which the Port Authorities were asked in 1940 to submit in a prescribed form. The specific amendment required in this respect is also indicated in the next column.	C. Amendment to the Calcutta Port Act. The following new section shall be added as section 80A:- "80A(1). The Commissioners shall annually, or oftener, if directed by the Central Government so to do, submit statements of their receipts and disbursements in such form and at such time as the Central Government may direct. (2) A copy of all such statements shall be open to the inspectionof the public at the office of commissioners during office hours on payment of onerupee for each inspection".

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Proposed amendment to the Port and Port Trust Acts to empower Government to appoint Auditors and to prescribe the extent, scope and manner of audit and the position of the Auditors vis-a-vis the Port Authorities.	Under section 77 of the Calcutta Port Act, section 58 of the Bombay Port Trust Act and section 79 of the Madras Act, the Central Government already possess the necessary power to appoint Auditors and no amendment to the Acts in this respect is called for. The three Port Acts are, however, silent on the point whether Government have any power to prescribe the manner of audit though, under the Chittagong Port Act and the Karachi Port Trust Act, such power is available to Government. At present the audit of the accounts of the Major Ports is done by the Accountant General concerned and the manner of audit, in so far as the same does not infringe the express provisions of the relevant Port Act, is prescribed by the Auditor General in India by executive instructions issued to the Accountants General in the matter. The Auditor General derives authority for so doing from the Audit and Accounts Order which extend to the auditing of the Port Trust Accounts, vide Articles 4 and 6 of the Audit Code. Although the Government have theoretically the power to appoint private Auditors to audit the Port Trust accouts if they so choose, there is no intention on the part of the Government to entrust the audit work to private Auditors in preference of the Audit Department of the Government. Since the Auditor General has already got powers to prescribe the manner, scope and extent of the audit, the Government of India do not consider it necessary to reserve to themselves anypowers in this direction. Provision already exists exists in section 78(1) of the Calcutta Act, section 58	A. Amendment to the Bombay Port Trust Act. (i) In section 58, the following sentence shall be added at the end of the second sub-paragraph:- " If any such person neglects or refuses so to do or produce any suchbooks, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign such declaration he shall be liable for every neglect or refusal to a penalty not exceeding one hundred ruppes." (ii) Section 80 shall be omitted. B. Amendment to the Madras Port Trust Act. (i) The existing section 79 shall be re-numbered as sub-section(1) of that section; (ii) Sub-section(1) of section 79 as re-numbered shall be amplified by the addition of the words,"and to make and sign a declaration with respect to the same" after the words " explanation thereof" occurring at the end; and (iii) the following new sub-section shall be added as sub-section(2) of section 79:- "(2). If any such person neglects or refuses so to do, or produce any such books, deeds, contracts, accouts,
	of.....		vouchers.....

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		of the Bombay Act and section 79 of the Madras Act empowering the Auditor to call for all documents and papers necessary for the conduct of audit and to require any person in possession of such documents to appear before him and to answer questions and sign declarations in respect of the same. Section 78(2) of the Calcutta Act prescribes a penalty for any person neglecting or refusing to produce any documents etc. or to furnish any information, but such a provision does not exist in the corresponding sections 58 and 79 of the Bombay and the Madras Acts respectively, though it exists in sections 80 and 102 of the latter Acts respectively. The Government of India have considered whether this provision regarding penalty for persons neglecting or refusing to cooperate to furnish documents, information, etc., to the Auditors should be continued. They feel that it is essential that such a provision should exist in all the Acts as otherwise the work of the Auditor may be made difficult, and the very object of auditing the accounts may not be served. In the interests of uniformity they consider that the amendments indicated in the next column should be made in the Bombay and Madras Port Trust Acts.	Vouchers documents or papers, or to make or sign such declarations, he shall be liable for every neglect or refusal to a penalty not exceeding one hundered rupees." (iv) Section 102 shall be omitted.

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8.	Proposed amendment to the Port and Port Trust Acts to empower Government to sanction expenditure in an emergency.	Under section 56 of the Bombay Act section 73 of the Calcutta Act and section 78 of the Madras Act, the Port Authorities already have certain emergency powers to incur expenditure for which no provision has been included in any sanctioned budget estimates. The Bombay Port Trust do not consider that it is necessary for Government also to have such emergency power of sanctioning expenditure not provided for in the budgetxxx, but the Calcutta Port Commissioners have made no comments on this proposal beyond remarking that the proposal is not clear. The Madras Port Trust have suggested an amendment to section 74 of their Act which they think will confer on Government emergency power to sanction expenditure. On a careful consideration the Government of India have come to the conclusion that it is not necessary for them to possess powers to sanction expenditure in an emergency. The initial responsibility of meeting the situation when an emergency arises will fall on the Port Authorities and the Governments of India feel that power to sanction expenditure in such circumstances should rest with the Port Authorities and <u>not</u> with them. Accordingly they have decided that no amendment need be made in the Port Trust Act for this Purpose, especially as powers to sanction expenditure in an emergency are already possessed by the Port Authorities. (Note:- The suggestion of the Madras Port Trust regarding amendment to section 74 of their Act has been further discussed under item 13 of this Group.)	

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9.	Proposed amendment to the Bombay Port Trust Act to authorise the Port Trust to close their accounts annually, instead of half-yearly as at present prescribed.	Section 76(1) of the Calcutta Port Act and section 79 of the Madras Port Trust Act prescribe that the accounts of the Port should be audited once in every year. Section 58 of the Bombay Act, however, lays down that the accounts of the Port should be audited twice in every year. The Auditor General of India, thinks that the Bombay Port Trust accounts should be prepared on annual basis and subjected to audit once a year and the Bombay Port Trust have no objection to this. The Government of India readily agree to this proposal and as they feel that the half yearly audit is an unnecessary duplication of work from the administrative point of view without any corresponding advantage. The amendment called for in the Bombay Act is indicated in the next column.	<u>Amendment to the Bombay Port Trust Act.</u> In section 58, for the existing work "twice", the word "once" shall be substituted,
10.	Proposed amendments to the Calcutta Port Act and the Bombay Port Trust Act to provide forthe submission of audit reports to Government.	Under section 80 of the Madras Port Trust Act, the Auditors have to forward copies of their report upon the accounts audited by them to the Central Government as well as to the Port Trust Board. Tge corresponding sections 58 and 76(2) respectively of the Bombay and the Calcutta Acts do <u>not</u> require the Auditors to submit a copy of the report to the Central Government but only to the Port Trust Board. As the Auditors are appointed by the Central Government, the Government of India feel that it will be in the fitness of things if the audit report is submitted to Government as well as the	A. <u>Amendment to the Bombay Port Trust Act.</u> In the last paragraph of section 58, for the words " the auditors shall forward their report upon the accounts of the Board, who shall cause", the words "the auditors shall forward copies of their report upon the accounts to the Central Government and

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		the Port Authority as is required to be done under section 80 of the Madras Port Trust Act. It is not necessary for the Audit Reports to be submitted to the Government first. It will do if the reports are submitted simultaneously to the Government and the Port Authorities. Both the Bombay Port Trust and the Calcutta Port Commissioners have no objection to suitable provision being made in their Acts for this purpose. The Madras Ports Trust also have no objection to the present provision under section 80 of their Act being continued. The specific amendments called for are indicated in the next column.	and to the Board. The Board shall thereupon cause" shall be substituted. B. Amendment to the Calcutta Port Act. In sub-section (2) of section 79, for the words, "and shall deliver such report to the Commissioners in meeting who shall cause", the words "and shall forward copies of their report to the Central Government and to the Commissioners in meeting. The Commissioners shall thereupon cause" shall be substituted.
11.	Proposed amendments to the Calcutta Port Act to make the Provision for the publication of the audit report and accounts in the existing Port and Port Trust Acts uniform.	Under sections 58, 76(2) and 80 of the Bombay, Calcutta and the Madras Acts respectively, provision already exists for the publication by the Port Authority of the audit reports in the official Gazette. The Calcutta Act requires, in addition, the publication of the reports in one or more of the daily newspapers published in Calcutta but there is no such corresponding requirement under the two other Acts. The.....	Amendments to the Calcutta Port Act. In sub-section 2 of section 76- (i) the words " and in some one or more of the daily newspapers published in Calcutta " shall be omitted. (ii) the words and commas" to gether with an extract of the accounts," shall be added after the words " to be published.

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			The Calcutta Port Commissioners think that the publication of the audit reports in the official Gazette should be regarded as sufficient. As the Bombay and the Madras Acts do not require publication of their audit report in the local newspapers as well as in the official Gazette, the Government of India do not have any objection to the Calcutta port Commissioners being relived of their statutory obligation to publish the report in the newspapers. The Bombay and the Madras Acts require specifically that an extract of the accounts should be published together with the audit report, but there is no such specific provision should be made in the Calcutta Act requiring the Commissioners to publish along with hhe audit report an extract of the accounts as well. The specific amendments to the calcutta Port Act are -- indicated in the next column.	

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12.	Question of making a specific provision in the various port and Port Trust Acts to enable Government to consider and pass -- orders on the Audit reports.	There is no provision under the existing Port and Port - Trust Acts for Government to Consider the Audit reports and to require the port Authorities concerned to give effect - to the recommendations etc. made in such reports. Since - the power to appoint Auditors for auditing the accountsef of the Major Port Trusts rests with the Government of the India, it is felt that Government should also have thepower to require the Major Port Authorities to remedy any defects or irregularities that may be pointed out by the Auditors in their reports and to pass final orders in cases of dis -agreement between the Port Authorities and the Auditors on any point. Similar powers are possessed by the West Bengal Government vis-a vist the - Calcutta Corporation. vide section 123 of the Calcutta Municipal Act, 1923, and there is also a similar provision in the Madras city Municipal Act, 1919, requiring immediate remedying of defects or irregularities pointed out by Audit. The specific provision in the three port and Port Trust Acts Considered necessary is indicated in the next column.	A. <u>Amendment to the Bombay Port Trust Act.</u> The following new section shall be inserted as section 58B:- " 58 B (1). The Board shall forthwith remedy any defects or irregularities that may be pointed out by the auditiors in their report and shall report the action - taken by them to the Central Government . (2) If there is a difference of opinion between the Board and the auditors on any point included in the audit report and the Board feel unable to accept and implement the recommendations, if any, made by the auditors on such point, the matter shall forthwith be referred to the Central Govern - ment who shall be competent to issue final orders thereon and the Board shall be bound to give effect to such final - orders. " B. <u>Amendment to the Madras Port Trust Act.</u> The following new section shall be inserted as section 80A:- " 80 A (1) The Board shall forthwith remedy any defects or irregularities that may be pointed out by the auditors in their report and shall report the action taken by them to the Central Government. (2) If there is a difference of opinion between the Board and the auditiors on any pointincluded in the audit report and the Board feel unable to accept and implement.

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			implement the recommendations, if any, made by the auditors on such point, the matter shall forthwith be referred to the Central Government who shall be Competent to issue final orders thereon and the Board shall be bound to give effect to such final orders ".
			C. Amendment to the Calcutta Port Act. The following new section shall be inserted as section 76A. :- "76A(1) . The Commissioners shall forthwith remedy any defects or irregularities that may be pointed out by the auditors in their p report and shall report the action taken by them to the Central Government. (2) If there is a difference of opinion between - the commissioners and the auditiors on any point included in the audit report and the Commissioners feel unable to accept and implement the recommendations, if any m - made by the auditors on such point, the matter shall - forthwith be referred to the Centnal Government who shall be competent to issue final orders thereon and the - Commissioners shall be bound to give effect to such final orders. ".

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13.	Question of the addition of an omibus - clause to Section49- of the Bombay Port - Trust Act regarding expenditure which can be defrayed from the moneys credited to the general account ~~to~~ of the Port.	Section 49 of the Bombay Port Trust Act Specifies the objects on which the moneys credited to the general account of the port can be expended. Theport Trust desire the insertion of an omnibus clause in this section to permit of the application of their moneys on certain additional objects, namely, rewards for life saving, for conspicious bravery or for detection of thefts, contributions to hospitals or charitable institutions, expenditure on annual inspection of the Port - or on exhibits or other advertisements of the facilities o offered by the port, maintenance of dispensaries, institutes, s Schools and other amenities for employees, etc. Even as section 49 is at present worded, the port Trust - can expend their funds on these objects but not without - obtaining the previous sanction of the Central Government - vide the second proviso to that section. The main object of the Bombay Port Trust, therefore , seems to be to seek power to sanction expenditure on these objects without having - to obtain Governments approval to such an expenditure. The Government of India are <u>not</u> in favour of the - insertion of an omnibus clause in section 49 ofthe Bombay Port Trust Act as proposed. They feel thatit is not possible to forsee all the objects in which the port Trust may like to spend their money. Further, they think that they should not divest themselves of the right to prevent the port Trust from making , say an over-generous grant to a charitable institutions or spend disproportionately large sums on the maintenance of dispensaries, institutes, schools, etc. or even on medical aid to employees or on advances to staff for - purchase of conveyance or for house building. The Government of India, however, agree that where the object on which the expenditure is incurred or is desired	A. <u>Amendments to the Bombay Port Trust Act.</u> (i) The following new clause shall be inserted in in section 49 as clause (8)- "(8) any other expenditure generally for the - purposes of this Act or for which the Board may be legally liable. " (ii) At the end of the second proviso to section 49, the following words shall be added .:- " Whether or not such charge is germane to the purposes of the Act .". B. <u>Amendment to the Madras Port Trust Act</u>.. The following new clause shall be inserted in section 74, as clause (9) :- " (9) any other charges whether or not germane to the purpose of this Act which may be specially sanctioned by the Central Government on the application of the Board, or ~~or~~ for which the --- Board,or for which the Board may be legally liable. "

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desired to be incurred, is unquestionably germane to the purposes of the Act, there is a case for the Port Trust having thepower to apply their funds without having to obtain the specific sanction of Government except to the extent required by the other provisions of the Act and they have no objection to an omnibus provision on the lines of clause(8) of section 74 of the Madras Port Trust Act being made in section 49 of the Bombay Act.

The Madras Port Trust have asked for section 74 of their Act which corresponds with section 49 of the Bombay Act to be amplified to permit of the application of their funds on the payment of "any other charges which may be specially sanctioned by the Central Government on the application of the Board or for which the Board may be legally liable." This suggestion has evidently beenmade by the Madras Port Trust on the analogy of section 67(1) of the Karachi Port Trust Act but is practically unnecessary in view of the omnibus provision already dontained in section 74(8) of the Madras Act which permits which cannot be regarded as strictly speaking germane to the purposes of their Act.

The Government of India would not be normally justified to sanction any expenditure as chargeable to the general account of any Port Trust unless such expenditure can be idertified with the objects of thePort Trust even though under the letter of the law Government may have unfettered power in this respect. They, however, agree that there are certain objects, e.g. rewards for life saving, detection of thefts, etc., which, though not strictly germane to the purposes of the relevant Port Trust Acts, are certainly very desirable objects and they agree that the Port Trust ~~xxxxxxxxxx~~should have power, with the prior sanctionof Government, to spend their funds on such objects.

The specific amendments proposed to be made to the Bombay and the Madraxs Acts are indicated in the next column. Under the Calcutta Act, there is no provision on the lines of section 49 or 74 of the Bombay or theMadras Act though section 57 of the Calcutta Act would appear to empower the Commissioners to apply their funds on all objects which are germane to the purposes of that Act. The question whether a provision on the lines of section 49 or 74 of the Bombay or the Madras Act is necessary in the Calcutta Act is still under consideration of Government in consultation with the Law Ministry.

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14. Question of amending section 56 of the Bombay Port Trust Act regarding expenditure of money on any item of expenditure for which no provision has been included in the sanctioned budget estimate.		The existing powers of the Bombay, Calcutta and the Madras Port Authorities to expend money on any item of expenditure for which no provision has been included in the sanctioned budget estimate, or on any item for which provision made in such estimate falls short of the actual requirement, have already been indicated in the discussions under item 2. The Chairman, Bombay Port Trust recently represented that the present limit of Rs. 5000/- upto which the Bombay Port Trust Board can ordinarily spend money not provided for in the sanctioned estimate, prescribed under section 56 of the Bombay Act, was inadequate and was causing great inconvenience. He suggested that the existing limit should be raised to Rs.25,000/-. The Calcutta Port Commissioners also have asked for their present limit of Rs. 20,000/-, prescribed under section 74 of their Act, to be increased to Rs. 1 lakh. x x It has been tentatively decided, vide the discussions under item 2, that the Port Authorities should have power to reappropriate savings to meet additional expenditure, if any, on such items of expenditure as have already been included in a sanctioned estimate. The need for additional power for the Port Trust Board to incur expenditure <u>not</u> provided for in a sanctioned estimate is likely to arise only when necessary savings are not available for reappropriation, or when, due to any circumstance, a supplementary estimate cannot be got prepared and sanctioned in the ordinary way. It is felt that such cases are likely to be few and far between. But, even if such cases arise frequently and in large numbers, some of them will doubtless arise in circumstances which can regarded as of "pressing emergency" and, in such cases, the Calcutta and the Bombay Port Authorities will not be handicapped in any way as they can invoke their powers of spending an unlimited amount	<u>A. Amendment to the Bombay Port Trust Act.</u> For the existing section 56, the following new section shall be substituted:- "56. Subject to the provisions of section 55A, no sum exceeding twenty thousand rupees shall, save in cases of pressing emergency, be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by the Central Government. If any sum exceeding twenty thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman, to the Central Government together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure". B. <u>Amendment to the Madras Port Trust Act.</u>

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		of money under sections 74 of the Calcutta Act and 56 of the Bombay Act. The Government of India do, however, feel that the existing limit of Rs.5000/- in the case of Bombay is on the low side and that, in the case of Madras, the complete absence of power to incur any expenditure not provided in the estimate except to the extent of Rs.5000/- in cases of pressing urgency, may prove to be a handicap on certain occasions. The power of the Port Authorities to spend money not included in their budget estimates should, it it thought, have some relation to their annual revenue and expdnditure. On this basis, the Government of India feel that it will be sufficient (a) if the Madras Port Trust is given power to spend upto Rs.5000/- ordinarily and any amount exceeding Rs.5000/- in cases of pressing emergency, and (b) if the present limit of Rs.5000/- for Bombay is raised to Rs.20,000/- on the basis of the existing provision under section 73 of the Calcutta Act, It is not considered necessary to raise the present limit of Rs.20,000/- in the case of Calcutta as it is felt that the existing section 72(a) of the Calcutta Act, which is not proposed to be disturbed, for the requirements of that port. The specific amendments to the Bombay and the Madras Acts considered necessary are indicated in the next column.	no sum exceeding five thousand rupees shall, save in cases of pressing exergency, be expanded by or on behalf of the Board unless such sum is included in some estimate at the time in force which has been finally approved by the Central Government If any sum exceeding five thousand rupees in amount it so expended on a pressing emergency the circumstances shall be forthwith reported by the Chairman ti the Central Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure". (ii) The existing sections, 77 and 78 shall be deleted.

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15.	Amendment of the Calcutta Port Act to provide for payment of audit fees by the Calcutta Port Commissioners when audit of their accounts is undertaken by a public department.	Sections 58 and 81 of the Bombay and the Madras Port Trust Acts respectively, permit of payment being made by the Port Trust Board of such remuneration to the Auditors as may be fixed by the Central Government for conducting the audit of the accounts of the Port, irrespective of whether the Auditors appointed to do the work are a private firm of Accountants or a Government Department. Section 79 of the Calcutta Port Act, however, permits of payment of audit fees being made by the Port Commissioners only if the Auditors are not a public department. The Calcutta Port Commissioners are of the view that if payment is to be made for audit work, they would prefer to have the audit conducted by a private firm of Accountants. The Government of India are unable to accept this view. They feel that the power to appoint Auditors should continue to rest with them as at present, <u>vide</u> section 77 of the Calcutta Port Act, and that, since the Act already provides for payment to be made by the Port Commissioners if Government appoint a private firm of Accountants as Auditors, there is no reasonable ground for the Port Commissioners to object to making payment for the same services when rendered by a public department. Since all other Major Ports and Local Bodies, whose accounts are audited by the Indian Audit Department, are paying audit fees, the Government of India feel that there is no justification to allow an exception in the case of Calcutta Port Commissioners. They accordingly propose to amend section 79 of the Calcutta Port Act as indicated in the next column.	<u>Amendment to the Calcutta Port Act</u>. In section 79, the words and commas ", not being a public department", shall be omitted.

141-142

1813/48

P.W.D.

M.B.(Ports)

Submitted with reference to the office note dated 3-12-1949.

2. Govt. of India, Ministry of Transport have sent a further statement of theproposed amendments group 6 for comments. All the items relate to Port Trust Acts only, except S. No. 1 wherein an addition to sub-section (2) of section 36 of the Indian Ports Act has been proposed. The Indian Ports Act is put up herewith. The existing subsection (2) of section 36 is at P. 22 of the Act. This is regarding Receipt, expenditure and only.

3. Comments are to be offered whether Govt. have any objection to the proposed amendments being made applicable to 'Minor Ports', by central legislation.

Id-Ø
20-12-49.

No objection
Id-

Id/-
20/12

Draft letter is put up.

Id/--

No. [illegible]181/48-M(P)

Public Works Department,
Bombay Castle (Bombay No. 1),
27th December 1949.

From

N.C.Patel, Esquire, B.E., B.S.E.(I), A.M.I.E.(Ind.),
Deputy Secretary to the Government of Bombay,
Public Works Department.

To

The Under Secretary to the Government of India,
Ministry of Transport,
New Delhi.

Subject:- Existing Ports and Port Trust Acts-.
Revision of-.

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Sir,

With reference to your letter No.2-P(1)49, dated the 13th December, 1949, I am directed to inform you that the Bombay Government has no objection to the proposed amendment to the Indian Ports Act, 1908, being made applicable to "Minor Ports" by the Central legislation.

Yours faithfully,

Sd/-

Deputy Secretary to the Government of Bombay,
Public Works Department.

D.A.-Nil,